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(Original Signature of Member)

112TH CONGRESS  
2D SESSION

**H. R.** \_\_\_\_\_

To amend title 18, United States Code, with respect to disclosures to governments by communications-related service providers of certain information consisting of or relating to communications, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Ms. ZOE LOFGREN of California introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To amend title 18, United States Code, with respect to disclosures to governments by communications-related service providers of certain information consisting of or relating to communications, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1 SHORT TITLE.**

4 This Act may be cited as the “ECPA 2.0 Act of  
5 2012”.

1 **SEC. 2. WARRANT REQUIRED FOR CONTENTS OF COMMU-**  
2 **NICATIONS.**

3 (a) COMPELLED DISCLOSURE OF COMMUNICATION  
4 CONTENTS.—

5 (1) IN GENERAL.—Section 2703 of title 18,  
6 United States Code, is amended—

7 (A) in subsection (a)—

8 (i) by striking “IN ELECTRONIC  
9 STORAGE” in the subsection header;

10 (ii) by inserting “or remote computing  
11 service” in the first sentence after “elec-  
12 tronic communication service”;

13 (iii) by striking “that is in electronic  
14 storage in an electronic communications  
15 system for one hundred and eighty days or  
16 less,” and inserting “that is stored, held,  
17 or maintained by that service,” ; and

18 (iv) by striking the final sentence and  
19 inserting “Within three days after a gov-  
20 ernmental entity receives such contents  
21 from a service provider pursuant to this  
22 subsection, the governmental entity shall  
23 serve upon, or deliver by registered or  
24 first-class mail, or other means reasonably  
25 calculated to be effective as specified by  
26 the court issuing the warrant to the sub-

1           scriber, customer, or user a copy of the  
2           warrant and a notice that includes the in-  
3           formation   referenced   in   section  
4           2705(a)(4)(A) and (B)(i), except that de-  
5           layed notice may be provided pursuant to  
6           section 2705 of this title.”; and

7           (B) by striking subsection (b).

8           (2)   CONFORMING    AMENDMENT.—Section  
9           2703(d) of title 18, United States Code, is amended  
10          by striking “(b) or”.

11          (b) VOLUNTARY DISCLOSURE OF COMMUNICATION  
12          CONTENTS.—

13          (1) IN GENERAL.—Section 2702(a)(3) of title  
14          18, United States Code, is amended—

15               (A) by inserting “to any governmental en-  
16               tity the contents of communication covered by  
17               subsection (a) of section 2703 or any” after  
18               “divulge”;

19               (B) by inserting “or user” after “cus-  
20               tomer”; and

21               (C) by striking “(not including the con-  
22               tents of communications covered by paragraph  
23               (1) or (2))”.

24          (2) CONFORMING AMENDMENTS.—Section 2705  
25          of title 18, United States Code, is amended—

1 (A) in subsection (a)(1)—

2 (i) in the subsection heading, by strik-  
3 ing “2703(b)” and inserting “2703(a)” ;

4 (ii) in subparagraph (A), by striking  
5 “court order” each place it appears and in-  
6 serting “warrant”;

7 (iii) in subparagraph (A), by striking  
8 “2703(b)” and inserting “2703(a)”;

9 (iv) by striking subparagraph (B);

10 (B) by striking subsection (a)(3);

11 (C) in subsection (a)(4), by striking “or by  
12 certification by a governmental entity, but only  
13 in accordance with subsection (b) of this sec-  
14 tion.”;

15 (D) in subsection (a)(5)—

16 (i) by inserting after “first-class  
17 mail,” the following: “or other means rea-  
18 sonably calculated to be effective as speci-  
19 fied by the court issuing the warrant”;

20 (ii) by striking “the process or re-  
21 quest” and replacing it with “warrant”;

22 (iii) in subsection (5)(A)(iii), by strik-  
23 ing “governmental entity or” and “certifi-  
24 cation or”;

25 (E) by striking subsection (a)(6); and

1 (F) in subsection (b)—

2 (i) by striking “when it is not re-  
3 quired to notify the subscriber or customer  
4 under section 2703(b)(1), or”;

5 (ii) by striking “subpoena or court  
6 order” each place it appears.

7 **SEC. 3. GEOLOCATION INFORMATION PROTECTION.**

8 (a) PROTECTION OF GEOLOCATION INFORMATION.—

9 (1) IN GENERAL.—Part 1 of title 18, United  
10 States Code, is amended by inserting after chapter  
11 119 the following:

12 **“CHAPTER 120—GEOLOCATION**  
13 **INFORMATION**

“Sec.

“2601. Definitions.

“2602. Interception and disclosure of geolocation information.

“2603. Prohibition of use as evidence of acquired geolocation information.

“2604. Emergency situation exception.

“2605. Recovery of civil damages authorized.

14 **“§ 2601. Definitions**

15 “In this chapter:

16 “(1) ELECTRONIC COMMUNICATION SERVICE.—

17 The term ‘electronic communication service’ has the  
18 meaning given that term in section 2510.

19 “(2) ELECTRONIC SURVEILLANCE.—The term

20 ‘electronic surveillance’ has the meaning given that  
21 term in section 101 of the Foreign Intelligence Sur-  
22 veillance Act of 1978 (50 U.S.C. 1801).

1           “(3) GEOLOCATION INFORMATION.—The term  
2           ‘geolocation information’ means, with respect to an  
3           individual, any information that is not the content of  
4           a communication, concerning the location of a wire-  
5           less communication device or tracking device (as  
6           that term is defined section 3117) that, in whole or  
7           in part, is generated by or derived from the oper-  
8           ation of that device and that could be used to deter-  
9           mine or infer information regarding the present,  
10          prospective, or historical location of the individual.

11          “(4) GEOLOCATION INFORMATION SERVICE.—  
12          The term ‘geolocation information service’ means the  
13          provision of a global positioning service or other  
14          mapping, locational, or directional information serv-  
15          ice to the public, or to such class of users as to be  
16          effectively available to the public, by or through the  
17          operation of any wireless communication device.

18          “(5) GOVERNMENTAL ENTITY.—The term ‘gov-  
19          ernmental entity’ means any employee or agent of  
20          the United States, or any State or political subdivi-  
21          sion thereof.

22          “(6) INTERCEPT.—The term ‘intercept’ means  
23          the acquisition of geolocation information through  
24          the use of any electronic, mechanical, or other de-  
25          vice.

1           “(7) INVESTIGATIVE OR LAW ENFORCEMENT  
2           OFFICER.—The term ‘investigative or law enforce-  
3           ment officer’ means any officer of the United States  
4           or of a State or political subdivision thereof, who is  
5           empowered by law to conduct investigations of, or to  
6           make arrests for, offenses enumerated in this chap-  
7           ter, and any attorney authorized by law to prosecute  
8           or participate in the prosecution of such offenses.

9           “(8) REMOTE COMPUTING SERVICE.—The term  
10          ‘remote computing service’ has the meaning given  
11          that term in section 2711.

12          “(9) STATE.—The term ‘State’ means any  
13          State of the United States, the District of Columbia,  
14          the Commonwealth of Puerto Rico, and any territory  
15          or possession of the United States.

16          “(10) WIRELESS COMMUNICATION DEVICE.—  
17          The term ‘wireless communication device’ means any  
18          device that enables access to, or use of, an electronic  
19          communication system or service, remote computing  
20          service, or geolocation information service, if that de-  
21          vice utilizes a radio or other wireless connection to  
22          access such system or service, including any mobile  
23          telephone, global positioning system receiving device,  
24          mobile computer, or other similar or successor de-  
25          vice.

1           “(11) COVERED SERVICE.—The term ‘covered  
2           services’ means electronic communication service, re-  
3           mote computing service, or of geolocation informa-  
4           tion service.

5   **“§ 2602. Interception and disclosure of geolocation in-**  
6                           **formation**

7           “(a) IN GENERAL.—Except as otherwise specifically  
8           provided in this chapter, it shall be unlawful for any gov-  
9           ernmental entity to—

10           “(1) intentionally intercept, endeavor to inter-  
11           cept, or procure any other person to intercept or en-  
12           deavor to intercept, geolocation information per-  
13           taining to an individual;

14           “(2) intentionally disclose, or endeavor to dis-  
15           close, to any person geolocation information per-  
16           taining to an individual, knowing or having reason  
17           to know that the information was obtained through  
18           the interception of such information in violation of  
19           this subsection;

20           “(3) intentionally use, or endeavor to use, any  
21           geolocation information, knowing or having reason  
22           to know that the information was obtained through  
23           the interception of such information in violation of  
24           this subsection; or



1           “(4)(A) intentionally disclose, or endeavor to  
2           disclose, to any person the geolocation information  
3           pertaining to an individual intercepted by means au-  
4           thorized by subsections (b) through (f), except as  
5           provided in such subsections;

6           “(B) knowing or having reason to know that  
7           the information was obtained through the intercep-  
8           tion of such information in connection with a crimi-  
9           nal investigation;

10           “(C) having obtained or received the informa-  
11           tion in connection with a criminal investigation; and

12           “(D) with intent to improperly obstruct, im-  
13           pede, or interfere with a duly authorized criminal in-  
14           vestigation.

15           “(b) EXCEPTION FOR CONDUCTING FOREIGN INTEL-  
16           LIGENCE SURVEILLANCE.—Notwithstanding any other  
17           provision of this chapter, it shall not be unlawful for an  
18           officer, employee, or agent of the United States in the nor-  
19           mal course of the official duty of the officer, employee,  
20           or agent to conduct electronic surveillance, as authorized  
21           by the Foreign Intelligence Surveillance Act of 1978 (50  
22           U.S.C. 1801 et seq.).

23           “(c) EXCEPTION FOR CONSENT.—

24           “(1) IN GENERAL.—It shall not be unlawful  
25           under this chapter to intercept geolocation informa-

1       tion pertaining to an individual if such individual  
2       has given prior consent to such interception unless  
3       such information is intercepted for the purpose of  
4       committing any criminal or tortious act in violation  
5       of the Constitution or laws of the United States or  
6       of any State.

7               “(2) CHILDREN.—The exception in paragraph  
8       (1) permits a parent or legal guardian of a child to  
9       give consent to intercept geolocation information.

10       “(d) EXCEPTION FOR PUBLIC INFORMATION.—It  
11       shall not be unlawful under this chapter to intercept or  
12       access geolocation information relating to an individual  
13       through any system that is configured so that such infor-  
14       mation is readily accessible to the general public.

15       “(e) EXCEPTION FOR EMERGENCY INFORMATION.—  
16       It shall not be unlawful under this chapter for any inves-  
17       tigative or law enforcement officer or other emergency re-  
18       sponder to intercept or access geolocation information re-  
19       lating to an individual if such information is used—

20               “(1) to respond to a request made by such indi-  
21       vidual for assistance; or

22               “(2) in circumstances in which it is reasonable  
23       to believe that the life or safety of the individual is  
24       threatened, to assist the individual.

25       “(f) EXCEPTION FOR WARRANT.—

1 “(1) DEFINITIONS.—In this subsection:

2 “(A) COURT OF COMPETENT JURISDIC-  
3 TION.—The term ‘court of competent jurisdic-  
4 tion’ includes—

5 “(i) any district court of the United  
6 States (including a magistrate judge of  
7 such a court) or any United States court  
8 of appeals that—

9 “(I) has jurisdiction over the of-  
10 fense being investigated;

11 “(II) is in or for a district in  
12 which the provider of a geolocation in-  
13 formation service is located or in  
14 which the geolocation information is  
15 stored; or

16 “(III) is acting on a request for  
17 foreign assistance pursuant to section  
18 3512 of this title; or

19 “(ii) a court of general criminal juris-  
20 diction of a State authorized by the law of  
21 that State to issue search warrants.

22 “(B) GOVERNMENTAL ENTITY.—The term  
23 ‘governmental entity’ means a department or  
24 agency of the United States or any State or po-  
25 litical subdivision thereof.

1           “(2) WARRANT.—A governmental entity may  
2 intercept geolocation information or require the dis-  
3 closure by a provider of covered services of  
4 geolocation information only pursuant to a warrant  
5 issued using the procedures described in the Federal  
6 Rules of Criminal Procedure (or, in the case of a  
7 State court, issued using State warrant procedures)  
8 by a court of competent jurisdiction, or as otherwise  
9 provided in this chapter or the Foreign Intelligence  
10 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

11           “(g) PROHIBITION ON DIVULGING GEOLOCATION IN-  
12 FORMATION.—

13           “(1) IN GENERAL.—Except as provided in para-  
14 graph (2), a person providing covered services shall  
15 not intentionally divulge to any governmental entity  
16 geolocation information pertaining to an individual.

17           “(2) EXCEPTIONS.—A person providing covered  
18 services may divulge geolocation information—

19           “(A) as otherwise authorized in subsections  
20 (b) through (f);

21           “(B) with the lawful consent of such indi-  
22 vidual;

23           “(C) as permitted under section 222(d)(4)  
24 of the Communications Act of 1934 (47 U.S.C.  
25 222(d)(4)); or

1           “(D) which was inadvertently obtained by  
2           the service provider and which appears to per-  
3           tain to the commission of a crime, if such divul-  
4           gence is made to a law enforcement agency.

5   **“§ 2603. Prohibition of use as evidence of acquired**  
6                           **geolocation information**

7           “If any geolocation information has been intercepted,  
8   used, or disclosed in violation of this chapter, no part of  
9   such information and no evidence derived therefrom may  
10 be received in evidence in any trial, hearing, or other pro-  
11 ceeding in or before any court, grand jury, department,  
12 officer, agency, regulatory body, legislative committee, or  
13 other authority of the United States, a State, or a political  
14 subdivision thereof, except in a civil action to obtain relief  
15 for a violation of this chapter.

16   **“§ 2604. Emergency situation exception**

17           “(a) EMERGENCY SITUATION EXCEPTION.—Not-  
18 withstanding any other provision of this chapter, any in-  
19 vestigative or law enforcement officer, specially designated  
20 by the Attorney General, the Deputy Attorney General,  
21 the Associate Attorney General, or by the principal pros-  
22 ecuting attorney of any State or subdivision thereof acting  
23 pursuant to a statute of that State, may intercept  
24 geolocation information if—

1           “(1) such officer reasonably determines that an  
2 emergency situation exists that—

3           “(A) involves—

4                   “(i) immediate danger of death or se-  
5 rious physical injury to any individual;

6                   “(ii) conspiratorial activities threat-  
7 ening the national security interest; or

8                   “(iii) conspiratorial activities char-  
9 acteristic of organized crime; and

10           “(B) requires geolocation information be  
11 intercepted before an order authorizing such  
12 interception can, with due diligence, be ob-  
13 tained;

14           “(2) there are grounds upon which an order  
15 could be entered to authorize such interception; and

16           “(3) an application for an order approving such  
17 interception is made within 48 hours after the inter-  
18 ception has occurred or begins to occur.

19           “(b) FAILURE TO OBTAIN COURT ORDER.—

20           “(1) TERMINATION OF ACQUISITION.—In the  
21 absence of an order, an interception of geolocation  
22 information carried out under subsection (a) shall  
23 immediately terminate when the information sought  
24 is obtained or when the application for the order is  
25 denied, whichever is earlier.

1           “(2) PROHIBITION ON USE AS EVIDENCE.—In  
2           the event such application for approval is denied, the  
3           geolocation information shall be treated as having  
4           been obtained in violation of this chapter and an in-  
5           ventory shall be served on each individual who is  
6           reasonably able to be contacted and to whom any  
7           such geolocation information pertains.

8           **“§ 2605. Recovery of civil damages authorized**

9           “(a) IN GENERAL.—Any individual whose geolocation  
10          information is intercepted, disclosed, or intentionally used  
11          in violation of this chapter may in a civil action recover  
12          from the person, other than the United States, which en-  
13          gaged in that violation such relief as may be appropriate.

14          “(b) RELIEF.—In an action under this section, ap-  
15          propriate relief includes—

16                 “(1) such preliminary and other equitable or  
17                 declaratory relief as may be appropriate;

18                 “(2) damages under subsection (c) and punitive  
19                 damages in appropriate cases; and

20                 “(3) a reasonable attorney’s fee and other liti-  
21                 gation costs reasonably incurred.

22          “(c) COMPUTATION OF DAMAGES.—The court may  
23          assess as damages under this section whichever is the  
24          greater of—

1           “(1) the sum of the actual damages suffered by  
2           the plaintiff and any profits made by the violator as  
3           a result of the violation; or

4           “(2) statutory damages of whichever is the  
5           greater of \$100 a day for each day of violation or  
6           \$10,000.

7           “(d) DEFENSE.—It is a defense against any civil ac-  
8           tion to obtain relief for a violation of this chapter that  
9           the defendant acted in a good faith reliance on—

10           “(1) a court warrant or order, a grand jury  
11           subpoena, a legislative authorization, or a statutory  
12           authorization;

13           “(2) a request of an investigative or law en-  
14           forcement officer under section 2604; or

15           “(3) a good-faith determination that an excep-  
16           tion under section 2602 permitted the conduct com-  
17           plained of.

18           “(e) LIMITATION.—A civil action under this section  
19           may not be commenced later than two years after the date  
20           upon which the claimant first has a reasonable oppor-  
21           tunity to discover the violation.

22           “(f) ADMINISTRATIVE DISCIPLINE.—If a court or ap-  
23           propriate department or agency determines that the  
24           United States or any of its departments or agencies has  
25           violated any provision of this chapter, and the court or



1 appropriate department or agency finds that the cir-  
2 cumstances surrounding the violation raise serious ques-  
3 tions about whether or not an officer or employee of the  
4 United States acted willfully or intentionally with respect  
5 to the violation, the department or agency shall, upon re-  
6 ceipt of a true and correct copy of the decision and find-  
7 ings of the court or appropriate department or agency  
8 promptly initiate a proceeding to determine whether dis-  
9 ciplinary action against the officer or employee is war-  
10 ranted. If the head of the department or agency involved  
11 determines that disciplinary action is not warranted, such  
12 head shall notify the Inspector General with jurisdiction  
13 over the department or agency concerned and shall provide  
14 the Inspector General with the reasons for such deter-  
15 mination.

16 “(g) IMPROPER DISCLOSURE IS VIOLATION.—Any  
17 willful disclosure or use by an investigative or law enforce-  
18 ment officer or governmental entity of information beyond  
19 the extent permitted by this chapter is a violation of this  
20 chapter for purposes of this section.”.

21 (2) CLERICAL AMENDMENT.—The table of  
22 chapters for part 1 of title 18, United States Code,  
23 is amended by inserting after the item relating to  
24 chapter 119 the following:

“120. Geolocation information ..... 2601”.

1           (3) CONFORMING AMENDMENTS.—Section  
2     3512(a) of title 18, United States Code, is amend-  
3     ed—

4           (A) in paragraph (2)—

5                 (i) by redesignating subparagraphs  
6           (B), (C), and (D) as subparagraphs (C),  
7           (D), and (E), respectively; and

8                 (ii) by inserting after subparagraph  
9           (A) the following:

10                 “(B) a warrant or order for geolocation in-  
11           formation or records related thereto, as pro-  
12           vided under section 2602 of this title;”.

13           (b) REQUIREMENT FOR SEARCH WARRANTS TO AC-  
14     QUIRE GEOLOCATION INFORMATION.—Rule 41(a) of the  
15     Federal Rules of Criminal Procedure is amended—

16           (1) in paragraph (2)(A), by striking the period  
17           at the end and inserting a comma and “including  
18           geolocation information.”; and

19           (2) by adding at the end the following:

20                 “(F) ‘Geolocation information’ has the  
21           meaning given that term in section 2601 of title  
22           18, United States Code.”.

23           (c) FRAUD AND RELATED ACTIVITY IN CONNECTION  
24     WITH OBTAINING GEOLOCATION INFORMATION.—

1           (1) CRIMINAL VIOLATION.—Section 1039(h) of  
2 title 18, United States Code, is amended—

3           (A) in paragraph (2)—

4                 (i) in subparagraph (A), by striking  
5 “and” at the end;

6                 (ii) in subparagraph (B), by striking  
7 the period at the end and inserting a semi-  
8 colon and “and”; and

9                 (iii) by adding at the end the fol-  
10 lowing new subparagraph:

11                 “(C) includes any geolocation information  
12 service.”;

13           (B) by redesignating paragraph (4) as  
14 paragraph (5); and

15           (C) by inserting after paragraph (3) the  
16 following:

17           “(4) GEOLOCATION INFORMATION SERVICE.—

18 The term ‘geolocation information service’ has the  
19 meaning given that term in section 2601.”.

20           (2) CONFORMING AMENDMENTS.—

21           (A) DEFINITION AMENDMENTS.—Section  
22 1039(h)(1) of title 18, United States Code, is  
23 amended—

24                 (i) in the paragraph heading, by in-  
25 serting “OR GPS” after “PHONE”; and

1 (ii) in the matter preceding subpara-  
2 graph (A), by inserting “or GPS” after  
3 “phone”.

4 (B) CONFORMING AMENDMENTS.—Section  
5 1039 of title 18, United States Code, is amend-  
6 ed—

7 (i) in the section heading by inserting  
8 “**or GPS**” after “**phone**”;

9 (ii) in subsection (a)—

10 (I) in the matter preceding para-  
11 graph (1), by inserting “or GPS”  
12 after “phone”; and

13 (II) in paragraph (4), by insert-  
14 ing “or GPS” after “phone”;

15 (iii) in subsection (b)—

16 (I) in the subsection heading, by  
17 inserting “OR GPS” after “PHONE”;

18 (II) in paragraph (1), by insert-  
19 ing “or GPS” after “phone” both  
20 places that term appears; and

21 (III) in paragraph (2), by insert-  
22 ing “or GPS” after “phone”; and

23 (iv) in subsection (c)—

24 (I) in the subsection heading, by  
25 inserting “OR GPS” after “PHONE”;

1 (II) in paragraph (1), by insert-  
2 ing “or GPS” after “phone” both  
3 places that term appears; and

4 (III) in paragraph (2), by insert-  
5 ing “or GPS” after “phone”.

6 (C) CLERICAL AMENDMENT.—The table of  
7 sections for chapter 47 of title 18, United  
8 States Code, is amended by striking the item  
9 relating to section 1039 and inserting the fol-  
10 lowing:

“1039. Fraud and related activity in connection with obtaining confidential  
phone or GPS records information of a covered entity.”.

11 (3) SENTENCING GUIDELINES.—

12 (A) REVIEW AND AMENDMENT.—Not later  
13 than 180 days after the date of enactment of  
14 this Act, the United States Sentencing Commis-  
15 sion, pursuant to its authority under section  
16 994 of title 28, United States Code, and in ac-  
17 cordance with this subsection, shall review and,  
18 if appropriate, amend the Federal sentencing  
19 guidelines and policy statements applicable to  
20 persons convicted of any offense under section  
21 1039 of title 18, United States Code, as amend-  
22 ed by this subsection.

23 (B) AUTHORIZATION.—The United States  
24 Sentencing Commission may amend the Federal

1           sentencing guidelines in accordance with the  
2           procedures set forth in section 21(a) of the Sen-  
3           tencing Act of 1987 (28 U.S.C. 994 note) as  
4           though the authority under that section had not  
5           expired.

6           (d) STATEMENT OF EXCLUSIVE MEANS OF ACQUIR-  
7           ING GEOLOCATION INFORMATION.—

8           (1) IN GENERAL.—No person may acquire the  
9           geolocation information of a person for protective ac-  
10          tivities or law enforcement or intelligence purposes  
11          except pursuant to a warrant issued pursuant to  
12          rule 41 of the Federal Rules of Criminal Procedure,  
13          as amended by subsection (b), or the amendments  
14          made by this section, or the Foreign Intelligence  
15          Surveillance Act of 1978 (50 U.S.C. 1801).

16          (2) GEOLOCATION INFORMATION DEFINED.—In  
17          this subsection, the term “geolocation information”  
18          has the meaning given that term in section 2601 of  
19          title 18, United States Code, as amended by sub-  
20          section (a).

21       **SEC. 4. STRENGTHENED REQUIREMENTS FOR ORDERS FOR**  
22                               **TRAP AND TRACE DEVICES.**

23          (a) Section 3122(b) of title 18, United States Code,  
24          is amended by striking paragraph (2) and inserting “a

1 statement of facts relied upon by the applicant to justify  
2 issuance of an order”.

3 (b) Section 3123(a)(1) of title 18, United States  
4 Code, is amended—

5 (1) by striking “shall” and inserting “may”;

6 (2) by striking “the attorney for the govern-  
7 ment has certified to the court” and inserting “the  
8 application establishes specific and articulable facts  
9 showing reasonable grounds to believe that”; and

10 (3) by inserting “and material” after “rel-  
11 evant”.

12 **SEC. 5. PROHIBITIONS OF BULK SUBPOENAS.**

13 Section 2703(c)(2) of title 18, United States Code,  
14 is amended by striking “of a subscriber to or customer”  
15 and all that follows and inserting “of a subscriber to or  
16 customer or user of such a service when the governmental  
17 entity uses any means available under paragraph (1) or  
18 uses an administrative subpoena authorized by a Federal  
19 or State statute or a Federal or State grand jury or trial  
20 subpoena specifying the particular subscriber, customer,  
21 or user whose information is sought by name, address,  
22 telephone or instrument number, subscriber number or  
23 identifier, including any temporarily assigned network ad-  
24 dress, credit card or bank account number, or any other

- 1 information that uniquely identifies the particular sub-
- 2 scriber, customer, or user.”.