

(m) PROHIBITION ON REPRODUCTION OF CHILD PORNOGRAPHY.—

(1) In any criminal proceeding, any property or material that constitutes child pornography (as defined by section 2256 of this title) shall remain in the care, custody, and control of either the Government or the court.

(2)(A) Notwithstanding Rule 16 of the Federal Rules of Criminal Procedure, a court shall deny, in any criminal proceeding, any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that constitutes child pornography (as defined by section 2256 of this title), so long as the Government makes the property or material reasonably available to the defendant.

(B) For the purposes of subparagraph (A), property or material shall be deemed to be reasonably available to the defendant if the Government provides ample opportunity for inspection, viewing, and examination at a Government facility of the property or material by the defendant, his or her attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.

(Added Pub. L. 101-647, title II, § 225(a), Nov. 29, 1990, 104 Stat. 4798; amended Pub. L. 103-322, title XXXIII, §§ 330010(6), (7), 330011(e), 330018(b), Sept. 13, 1994, 108 Stat. 2143, 2145, 2149; Pub. L. 104-294, title VI, § 605(h), Oct. 11, 1996, 110 Stat. 3510; Pub. L. 109-248, title V, §§ 504, 507, July 27, 2006, 120 Stat. 629, 631; Pub. L. 111-16, § 3(11), May 7, 2009, 123 Stat. 1608.)

REFERENCES IN TEXT

The Federal Rules of Evidence, referred to in subsec. (c)(1), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Rules of Criminal Procedure, referred to in subssecs. (f) and (m)(2)(A), are set out in the Appendix to this title.

AMENDMENTS

2009—Subsec. (b)(1)(A). Pub. L. 111-16 substituted “7 days” for “5 days”.

2006—Subsec. (h)(1). Pub. L. 109-248, § 507, inserted “, and provide reasonable compensation and payment of expenses for,” after “The court may appoint”.

Subsec. (m). Pub. L. 109-248, § 504, added subsec. (m).
1996—Subsec. (e). Pub. L. 104-294, § 605(h)(1), substituted “serve the Government’s” for “serve the government’s”.

Subsec. (h)(3). Pub. L. 104-294, § 605(h)(2), substituted “in paragraph (2)” for “in subpart (2)”.

1994—Pub. L. 103-322, § 330011(e), made technical amendment to directory language of Pub. L. 101-647, § 225(a), which enacted this section.

Pub. L. 103-322, § 330010(7)(B), substituted “Government” for “government” in subssecs. (b)(1)(A), (D), (2)(A), and (c)(5)(B), in subsec. (d)(1)(B)(i) after “hired by the”, and in subsec. (g)(1).

Pub. L. 103-322, § 330010(7)(A), substituted “subsection” for “subdivision” in subssecs. (b)(1)(A), (D)(i), (2)(A), (B)(iii)(III), (c)(1), (d)(4), and (f).

Subsec. (a)(11) to (13). Pub. L. 103-322, § 330010(6), redesignated pars. (12) and (13) as (11) and (12), respectively, and struck out former par. (11) which read as follows: “the term ‘exploitation’ means child pornography or child prostitution;”.

Subsec. (k). Pub. L. 103-322, § 330018(b), substituted heading for one which read “Extension of Child Statute of Limitations” and struck out first sentence which read as follows: “No statute of limitation that would otherwise preclude prosecution for an offense involving

the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25 years.”

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-16 effective Dec. 1, 2009, see section 7 of Pub. L. 111-16, set out as a note under section 109 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-322, title XXXIII, § 330011(e), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of the date on which section 225(a) of Pub. L. 101-647 took effect.

§ 3510. Rights of victims to attend and observe trial

(a) NON-CAPITAL CASES.—Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, make a statement or present any information in relation to the sentence.

(b) CAPITAL CASES.—Notwithstanding any statute, rule, or other provision of law, a United States district court shall not order any victim of an offense excluded from the trial of a defendant accused of that offense because such victim may, during the sentencing hearing, testify as to the effect of the offense on the victim and the victim’s family or as to any other factor for which notice is required under section 3593(a).

(c) DEFINITION.—As used in this section, the term “victim” includes all persons defined as victims in section 503(e)(2) of the Victims’ Rights and Restitution Act of 1990.

(Added Pub. L. 105-6, § 2(a), Mar. 19, 1997, 111 Stat. 12.)

REFERENCES IN TEXT

Section 503(e)(2) of the Victims’ Rights and Restitution Act of 1990, referred to in subsec. (c), is classified to section 10607(e)(2) of Title 42, The Public Health and Welfare.

EFFECTIVE DATE

Pub. L. 105-6, § 2(d), Mar. 19, 1997, 111 Stat. 13, provided that: “The amendments made by this section [enacting this section and amending section 3593 of this title] shall apply in cases pending on the date of the enactment of this Act [Mar. 19, 1997].”

§ 3511. Judicial review of requests for information

(a) The recipient of a request for records, a report, or other information under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947 may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the request. The court may modify or set aside the request if compliance would be unreasonable, oppressive, or otherwise unlawful.

(b)(1) The recipient of a request for records, a report, or other information under section 2709(b) of this title, section 626(a) or (b) or 627(a)

of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, may petition any court described in subsection (a) for an order modifying or setting aside a nondisclosure requirement imposed in connection with such a request.

(2) If the petition is filed within one year of the request for records, a report, or other information under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the court may modify or set aside such a nondisclosure requirement if it finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. If, at the time of the petition, the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation, or in the case of a request by a department, agency, or instrumentality of the Federal Government other than the Department of Justice, the head or deputy head of such department, agency, or instrumentality, certifies that disclosure may endanger the national security of the United States or interfere with diplomatic relations, such certification shall be treated as conclusive unless the court finds that the certification was made in bad faith.

(3) If the petition is filed one year or more after the request for records, a report, or other information under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, or in the case of a request by a department, agency, or instrumentality of the Federal Government other than the Federal Bureau of Investigation, the head or deputy head of such department, agency, or instrumentality, within ninety days of the filing of the petition, shall either terminate the nondisclosure requirement or re-certify that disclosure may result in a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person. In the event of re-certification, the court may modify or set aside such a nondisclosure requirement if it finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. If the recertification that disclosure may endanger the national security of the United

States or interfere with diplomatic relations is made by the Attorney General, Deputy Attorney General, an Assistant Attorney General, or the Director of the Federal Bureau of Investigation, such certification shall be treated as conclusive unless the court finds that the recertification was made in bad faith. If the court denies a petition for an order modifying or setting aside a nondisclosure requirement under this paragraph, the recipient shall be precluded for a period of one year from filing another petition to modify or set aside such nondisclosure requirement.

(c) In the case of a failure to comply with a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the Attorney General may invoke the aid of any district court of the United States within the jurisdiction in which the investigation is carried on or the person or entity resides, carries on business, or may be found, to compel compliance with the request. The court may issue an order requiring the person or entity to comply with the request. Any failure to obey the order of the court may be punished by the court as contempt thereof. Any process under this section may be served in any judicial district in which the person or entity may be found.

(d) In all proceedings under this section, subject to any right to an open hearing in a contempt proceeding, the court must close any hearing to the extent necessary to prevent an unauthorized disclosure of a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947. Petitions, filings, records, orders, and subpoenas must also be kept under seal to the extent and as long as necessary to prevent the unauthorized disclosure of a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 626(a) or (b) or 627(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947.

(e) In all proceedings under this section, the court shall, upon request of the government, review *ex parte* and *in camera* any government submission or portions thereof, which may include classified information.

(Added Pub. L. 109-177, title I, §115(2), Mar. 9, 2006, 120 Stat. 211.)

REFERENCES IN TEXT

Sections 626(a), (b) and 627(a) of the Fair Credit Reporting Act, referred to in subsecs. (a) to (d), are classified to sections 1681u(a), (b) and 1681v(a), respectively, of Title 15, Commerce and Trade.

Section 1114(a)(5)(A) of the Right to Financial Privacy Act, referred to in subsecs. (a) to (d), probably means section 1114(a)(5)(A) of the Right to Financial Privacy Act of 1978, which is classified to section 3414(a)(5)(A) of Title 12, Banks and Banking.

Section 802(a) of the National Security Act of 1947, referred to in subsecs. (a) to (d), is classified to section 3162(a) of Title 50, War and National Defense.

REPORTS ON NATIONAL SECURITY LETTERS

Pub. L. 109-177, title I, §118, Mar. 9, 2006, 120 Stat. 217, provided that:

“(a) EXISTING REPORTS.—Any report made to a committee of Congress regarding national security letters under section 2709(c)(1) of title 18, United States Code, section 626(d) or 627(c) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d) or 1681v(c)), section 1114(a)(3) or 1114(a)(5)(D) of the Right to Financial Privacy Act [of 1978] (12 U.S.C. 3414(a)(3) or 3414(a)(5)(D)), or section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b) [now 50 U.S.C. 3162(b)]) shall also be made to the Committees on the Judiciary of the House of Representatives and the Senate.

“(b) ENHANCED OVERSIGHT OF FAIR CREDIT REPORTING ACT COUNTERTERRORISM NATIONAL SECURITY LETTER.—[Amended section 1681v of Title 15, Commerce and Trade.]

“(c) REPORT ON REQUESTS FOR NATIONAL SECURITY LETTERS.—

“(1) IN GENERAL.—In April of each year, the Attorney General shall submit to Congress an aggregate report setting forth with respect to the preceding year the total number of requests made by the Department of Justice for information concerning different United States persons under—

“(A) section 2709 of title 18, United States Code (to access certain communication service provider records), excluding the number of requests for subscriber information;

“(B) section 1114 of the Right to Financial Privacy Act [of 1978] (12 U.S.C. 3414) (to obtain financial institution customer records);

“(C) section 802 of the National Security Act of 1947 (50 U.S.C. 436) [now 50 U.S.C. 3162] (to obtain financial information, records, and consumer reports);

“(D) section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) (to obtain certain financial information and consumer reports); and

“(E) section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) (to obtain credit agency consumer records for counterterrorism investigations).

“(2) UNCLASSIFIED FORM.—The report under this section shall be submitted in unclassified form.

“(d) NATIONAL SECURITY LETTER DEFINED.—In this section, the term ‘national security letter’ means a request for information under one of the following provisions of law:

“(1) Section 2709(a) of title 18, United States Code (to access certain communication service provider records).

“(2) Section 1114(a)(5)(A) of the Right to Financial Privacy Act [of 1978] (12 U.S.C. 3414(a)(5)(A)) (to obtain financial institution customer records).

“(3) Section 802 of the National Security Act of 1947 (50 U.S.C. 436) [now 50 U.S.C. 3162] (to obtain financial information, records, and consumer reports).

“(4) Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681u) (to obtain certain financial information and consumer reports).

“(5) Section 627 of the Fair Credit Reporting Act (15 U.S.C. 1681v) (to obtain credit agency consumer records for counterterrorism investigations).”

§ 3512. Foreign requests for assistance in criminal investigations and prosecutions

(a) EXECUTION OF REQUEST FOR ASSISTANCE.—

(1) IN GENERAL.—Upon application, duly authorized by an appropriate official of the Department of Justice, of an attorney for the Government, a Federal judge may issue such orders as may be necessary to execute a request from a foreign authority for assistance

in the investigation or prosecution of criminal offenses, or in proceedings related to the prosecution of criminal offenses, including proceedings regarding forfeiture, sentencing, and restitution.

(2) SCOPE OF ORDERS.—Any order issued by a Federal judge pursuant to paragraph (1) may include the issuance of—

(A) a search warrant, as provided under Rule 41 of the Federal Rules of Criminal Procedure;

(B) a warrant or order for contents of stored wire or electronic communications or for records related thereto, as provided under section 2703 of this title;

(C) an order for a pen register or trap and trace device as provided under section 3123 of this title; or

(D) an order requiring the appearance of a person for the purpose of providing testimony or a statement, or requiring the production of documents or other things, or both.

(b) APPOINTMENT OF PERSONS TO TAKE TESTIMONY OR STATEMENTS.—

(1) IN GENERAL.—In response to an application for execution of a request from a foreign authority as described under subsection (a), a Federal judge may also issue an order appointing a person to direct the taking of testimony or statements or of the production of documents or other things, or both.

(2) AUTHORITY OF APPOINTED PERSON.—Any person appointed under an order issued pursuant to paragraph (1) may—

(A) issue orders requiring the appearance of a person, or the production of documents or other things, or both;

(B) administer any necessary oath; and

(C) take testimony or statements and receive documents or other things.

(c) FILING OF REQUESTS.—Except as provided under subsection (d), an application for execution of a request from a foreign authority under this section may be filed—

(1) in the district in which a person who may be required to appear resides or is located or in which the documents or things to be produced are located;

(2) in cases in which the request seeks the appearance of persons or production of documents or things that may be located in multiple districts, in any one of the districts in which such a person, documents, or things may be located; or

(3) in any case, the district in which a related Federal criminal investigation or prosecution is being conducted, or in the District of Columbia.

(d) SEARCH WARRANT LIMITATION.—An application for execution of a request for a search warrant from a foreign authority under this section, other than an application for a warrant issued as provided under section 2703 of this title, shall be filed in the district in which the place or person to be searched is located.

(e) SEARCH WARRANT STANDARD.—A Federal judge may issue a search warrant under this section only if the foreign offense for which the evidence is sought involves conduct that, if com-