

Text read as follows: “If a court determines that any agency or department of the United States has violated this chapter and the court finds that the circumstances surrounding the violation raise the question whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department concerned shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee.”

Subsec. (e)(1). Pub. L. 107-56, §815, as amended by Pub. L. 107-273, inserted “(including a request of a governmental entity under section 2703(f) of this title)” after “or a statutory authorization”.

Subsec. (g). Pub. L. 107-56, §223(b)(3), added subsec. (g).

1996—Subsec. (a). Pub. L. 104-293, §601(c)(1), substituted “other person” for “customer”.

Subsec. (c). Pub. L. 104-293, §601(c)(2), inserted at end “If the violation is willful or intentional, the court may assess punitive damages. In the case of a successful action to enforce liability under this section, the court may assess the costs of the action, together with reasonable attorney fees determined by the court.”

Subsecs. (d) to (f). Pub. L. 104-293, §601(c)(3), (4), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-273, div. B, title IV, §4005(f)(2), Nov. 2, 2002, 116 Stat. 1813, provided that the amendment made by section 4005(f)(2) is effective Oct. 26, 2001.

§ 2708. Exclusivity of remedies

The remedies and sanctions described in this chapter are the only judicial remedies and sanctions for nonconstitutional violations of this chapter.

(Added Pub. L. 99-508, title II, §201[(a)], Oct. 21, 1986, 100 Stat. 1867.)

§ 2709. Counterintelligence access to telephone toll and transactional records

(a) DUTY TO PROVIDE.—A wire or electronic communication service provider shall comply with a request for subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

(b) REQUIRED CERTIFICATION.—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, may, using a term that specifically identifies a person, entity, telephone number, or account as the basis for a request—

- (1) request the name, address, length of service, and local and long distance toll billing records of a person or entity if the Director (or his designee) certifies in writing to the wire or electronic communication service provider to which the request is made that the name, address, length of service, and toll billing records sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first

amendment to the Constitution of the United States; and

(2) request the name, address, and length of service of a person or entity if the Director (or his designee) certifies in writing to the wire or electronic communication service provider to which the request is made that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

(c) PROHIBITION OF CERTAIN DISCLOSURE.—

(1) PROHIBITION.—

(A) IN GENERAL.—If a certification is issued under subparagraph (B) and notice of the right to judicial review under subsection (d) is provided, no wire or electronic communication service provider that receives a request under subsection (b), or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

(B) CERTIFICATION.—The requirements of subparagraph (A) shall apply if the Director of the Federal Bureau of Investigation, or a designee of the Director whose rank shall be no lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge of a Bureau field office, certifies that the absence of a prohibition of disclosure under this subsection may result in—

- (i) a danger to the national security of the United States;
- (ii) interference with a criminal, counterterrorism, or counterintelligence investigation;
- (iii) interference with diplomatic relations; or
- (iv) danger to the life or physical safety of any person.

(2) EXCEPTION.—

(A) IN GENERAL.—A wire or electronic communication service provider that receives a request under subsection (b), or officer, employee, or agent thereof, may disclose information otherwise subject to any applicable nondisclosure requirement to—

- (i) those persons to whom disclosure is necessary in order to comply with the request;
- (ii) an attorney in order to obtain legal advice or assistance regarding the request; or
- (iii) other persons as permitted by the Director of the Federal Bureau of Investigation or the designee of the Director.

(B) APPLICATION.—A person to whom disclosure is made under subparagraph (A) shall be subject to the nondisclosure requirements applicable to a person to whom a request is issued under subsection (b) in the same manner as the person to whom the request is issued.

(C) NOTICE.—Any recipient that discloses to a person described in subparagraph (A) in-