

Editorial Notes**AMENDMENTS**

2018—Subsec. (e)(3). Pub. L. 115-141 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “a good faith determination that section 2511(3) of this title permitted the conduct complained of;”.

2002—Subsec. (e)(1). Pub. L. 107-273 made technical correction to directory language of Pub. L. 107-56, §815. See 2001 Amendment note below.

2001—Subsec. (a). Pub. L. 107-56, §223(b)(1), inserted “, other than the United States,” after “person or entity”.

Subsec. (d). Pub. L. 107-56, §223(b)(2), added subsec. (d) and struck out heading and text of former subsec. (d). 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.

Statutory Notes and Related Subsidiaries**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.

EFFECTIVE DATE

Section effective 90 days after Oct. 21, 1986, and, in the case of conduct pursuant to a court order or extension, applicable only with respect to court orders or extensions made after such effective date, see section 202 of Pub. L. 99-508, set out as a note under section 2701 of this title.

§ 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.)

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE**

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§ 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;