

1805(e) of this title and the total number of subsequent orders approving or denying such electronic surveillance; and

(D) the total number of authorizations under section 1805(f) of this title and the total number of subsequent emergency employments of electronic surveillance under section 1805(e) of this title or emergency physical searches pursuant to section 301(e).<sup>1</sup>

(b) On or before one year after October 25, 1978, and on the same day each year for four years thereafter, the Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence shall report respectively to the House of Representatives and the Senate, concerning the implementation of this chapter. Said reports shall include but not be limited to an analysis and recommendations concerning whether this chapter should be (1) amended, (2) repealed, or (3) permitted to continue in effect without amendment.

(Pub. L. 95-511, title I, §108, Oct. 25, 1978, 92 Stat. 1795; Pub. L. 106-567, title VI, §604(a), Dec. 27, 2000, 114 Stat. 2853; Pub. L. 109-177, title I, §108(c), Mar. 9, 2006, 120 Stat. 204; Pub. L. 110-261, title I, §105(b), July 10, 2008, 122 Stat. 2462; Pub. L. 114-23, title VI, §605(a), title VII, §701(c), June 2, 2015, 129 Stat. 297, 299.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 301, referred to in subsec. (a)(2)(D), means section 301 of Pub. L. 95-511, which is classified to section 1821 of this title, relates to definitions for terms used in subchapter II of this chapter, and does not contain a subsec. (e). Section 304(e) of Pub. L. 95-511, which is classified to section 1824(e) of this title, relates to authorizations and orders for emergency physical searches.

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

##### AMENDMENTS

2015—Subsec. (a)(1). Pub. L. 114-23, §605(a), substituted “the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives and the Select Committee on Intelligence and the Committee on the Judiciary of the Senate” for “the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence, and the Committee on the Judiciary of the Senate.”

Subsec. (a)(2)(D). Pub. L. 114-23, §701(c), added subpar. (D).

2008—Subsec. (a)(2)(C). Pub. L. 110-261 substituted “1805(e)” for “1805(f)”.

2006—Subsec. (a)(1). Pub. L. 109-177, §108(c)(1), inserted “, and the Committee on the Judiciary of the Senate,” after “Senate Select Committee on Intelligence”.

Subsec. (a)(2). Pub. L. 109-177, §108(c)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Each report under the first sentence of paragraph (1) shall include a description of—

“(A) each criminal case in which information acquired under this chapter has been passed for law enforcement purposes during the period covered by such report; and

“(B) each criminal case in which information acquired under this chapter has been authorized for use at trial during such reporting period.”

2000—Subsec. (a). Pub. L. 106-567 designated existing provisions as par. (1) and added par. (2).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-261 effective July 10, 2008, except as provided in section 404 of Pub. L. 110-261, set out as a Transition Procedures note under section 1801 of this title, see section 402 of Pub. L. 110-261, set out as an Effective Date of 2008 Amendment note under section 1801 of this title.

#### § 1809. Criminal sanctions

##### (a) Prohibited activities

A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by this chapter, chapter 119, 121, or 206 of title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of this title;

(2) discloses or uses information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized by this chapter, chapter 119, 121, or 206 of title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of this title.

##### (b) Defense

It is a defense to a prosecution under subsection (a) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

##### (c) Penalties

An offense described in this section is punishable by a fine of not more than \$10,000 or imprisonment for not more than five years, or both.

##### (d) Federal jurisdiction

There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

(Pub. L. 95-511, title I, §109, Oct. 25, 1978, 92 Stat. 1796; Pub. L. 110-261, title I, §102(b), July 10, 2008, 122 Stat. 2459; Pub. L. 111-259, title VIII, §801(3), Oct. 7, 2010, 124 Stat. 2746.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this Act”, meaning Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

##### AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-259, §801(3)(A), substituted “section 1812 of this title;” for “section 1812 of this title;”.

<sup>1</sup> See References in Text note below.

Subsec. (a)(2). Pub. L. 111-259, §801(3)(B), substituted “title.” for “title..”

2008—Subsec. (a). Pub. L. 110-261 substituted “authorized by this chapter, chapter 119, 121, or 206 of title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of this title.” for “authorized by statute” in pars. (1) and (2).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-261 effective July 10, 2008, except as provided in section 404 of Pub. L. 110-261, set out as a Transition Procedures note under section 1801 of this title, see section 402 of Pub. L. 110-261, set out as an Effective Date of 2008 Amendment note under section 1801 of this title.

#### § 1810. Civil liability

An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 1801(a) or (b)(1)(A) of this title, respectively, who has been subjected to an electronic surveillance or about whom information obtained by electronic surveillance of such person has been disclosed or used in violation of section 1809 of this title shall have a cause of action against any person who committed such violation and shall be entitled to recover—

- (a) actual damages, but not less than liquidated damages of \$1,000 or \$100 per day for each day of violation, whichever is greater;
- (b) punitive damages; and
- (c) reasonable attorney’s fees and other investigation and litigation costs reasonably incurred.

(Pub. L. 95-511, title I, § 110, Oct. 25, 1978, 92 Stat. 1796.)

#### § 1811. Authorization during time of war

Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this subchapter to acquire foreign intelligence information for a period not to exceed fifteen calendar days following a declaration of war by the Congress.

(Pub. L. 95-511, title I, § 111, Oct. 25, 1978, 92 Stat. 1796.)

#### § 1812. Statement of exclusive means by which electronic surveillance and interception of certain communications may be conducted

(a) Except as provided in subsection (b), the procedures of chapters 119, 121, and 206 of title 18 and this chapter shall be the exclusive means by which electronic surveillance and the interception of domestic wire, oral, or electronic communications may be conducted.

(b) Only an express statutory authorization for electronic surveillance or the interception of domestic wire, oral, or electronic communications, other than as an amendment to this chapter or chapters 119, 121, or 206 of title 18 shall constitute an additional exclusive means for the purpose of subsection (a).

(Pub. L. 95-511, title I, § 112, as added Pub. L. 110-261, title I, § 102(a), July 10, 2008, 122 Stat. 2459.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-261 effective July 10, 2008, except as provided in section 404 of Pub. L. 110-261, set out as a Transition Procedures note under section 1801 of this title, see section 402 of Pub. L. 110-261, set out as an Effective Date of 2008 Amendment note under section 1801 of this title.

#### § 1813. Procedures for the retention of incidentally acquired communications

##### (a) Definitions

In this section:

##### (1) Covered communication

The term “covered communication” means any nonpublic telephone or electronic communication acquired without the consent of a person who is a party to the communication, including communications in electronic storage.

##### (2) Head of an element of the intelligence community

The term “head of an element of the intelligence community” means, as appropriate—

- (A) the head of an element of the intelligence community; or
- (B) the head of the department or agency containing such element.

##### (3) United States person

The term “United States person” has the meaning given that term in section 1801 of this title.

##### (b) Procedures for covered communications

##### (1) Requirement to adopt

Not later than 2 years after December 19, 2014, each head of an element of the intelligence community shall adopt procedures approved by the Attorney General for such element that ensure compliance with the requirements of paragraph (3).

##### (2) Coordination and approval

The procedures required by paragraph (1) shall be—

- (A) prepared in coordination with the Director of National Intelligence; and
- (B) approved by the Attorney General prior to issuance.

##### (3) Procedures

##### (A) Application

The procedures required by paragraph (1) shall apply to any intelligence collection activity not otherwise authorized by court order (including an order or certification issued by a court established under subsection (a) or (b) of section 1803 of this title), subpoena, or similar legal process that is