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## **USA PATRIOT Improvement and Reauthorization Act of 2005 (H.R. 3199): A Side-by-Side Comparison of Existing Law, H.R. 3199 (Conference) and H.R. 3199 (Senate Passed)**

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# USA PATRIOT Improvement and Reauthorization Act of 2005 (H.R. 3199): A Side-by-Side Comparison of Existing Law, H.R. 3199 (Conference) and H.R. 3199 (Senate Passed)

## Summary

By virtue of section 224 of the USA PATRIOT Act, P.L. 107-56 (2001), several of the Act's amendments to the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801-1862, and the Electronic Communications Privacy Act, 18 U.S.C. 2510-2522, 2701-2712, 3121-3127, were scheduled to expire on December 31, 2005, 115 Stat. 295 (2001). P.L. 109-160 (S. 2167) postponed the expiration dates of those provisions and of section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004 ("lone wolf" amendment) until February 3, 2006, 119 Stat. 2957(2005); P.L. 109-170 (H.R. 4659) further extended sunset until March 10, 2006.

The version of the USA PATRIOT Improvement and Reauthorization Act of 2005, H.R. 3199, which the Senate sent to conference primarily addresses the provisions scheduled to expire and related matters such as the issuance of "national security letters" under 18 U.S.C. 2709. The version of H.R. 3199 upon which the conferees agreed represents a compromise between the Senate version and the version passed by the House. The conference bill also contains provisions, amended by the conferees in several instances, that originated in the House, but that in some cases have been considered in the Senate under separate legislative proposals. These include sections relating to the death penalty, seaport security, secret service, combating terrorism financing, and methamphetamine abuse. The House passed the conference bill on December 14, 2005, 151 *Cong.Rec.* H11543-544. S. 2271 amends the conference bill.

This report may be revised as circumstances warrant. Related CRS reports include CRS Report RS22348, *USA PATRIOT Improvement and Reauthorization Act of 2005 (H.R. 3199): A Brief Look*; and CRS Report RL33239, *USA PATRIOT Improvement and Reauthorization Act of 2005 (H.R. 3199): Side-by-Side Analysis of the Conference Bill*, both by Brian T. Yeh and Charles Doyle.

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# USA PATRIOT Improvement and Reauthorization Act of 2005 (H.R. 3199): A Side-by-Side Comparison of Existing Law, H.R. 3199 (Conference), and H.R. 3199 (Senate Passed)

On December 9, 2005, House and Senate conferees reported out the USA PATRIOT Improvement and Reauthorization Act (H.R. 3199). The House agreed to the conference report on December 14, 2005, 151 *Cong.Rec.* H11543-544. On December 22, 2005, the House and Senate enacted a bill (S. 2167) that extended the sunset of certain provisions of the USA PATRIOT Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004, originally set to expire on December 31, 2005, until February 3, 2006, P.L. 109-160, 119 Stat. 2957 (2005); the expiration was subsequently further extended to March 10, 2006, P.L. 109-170, 120 Stat. 3 (2006). S. 2271 amends the conference bill.

What follows is a side-by-side comparison of existing law, the conference report version of H.R. 3199, and the version of H.R. 3199 which the Senate sent to conference. S. 2271's amendments to the conference bill are noted in the comments column.

**USA PATRIOT Act Reauthorizations and Adjustments: Comparison of H.R. 3199 (Conference Report) and H.R. 3199 (Senate Passed (S. 1389))**

| Present law  | H.R. 3199 (Conference Report)<br>USA PATRIOT and Terrorism<br>Prevention Reauthorization Act of<br>2005                                 | H.R. 3199 (Senate Passed(S. 1389))<br>USA PATRIOT Improvement and<br>Reauthorization Act of 2005   | Comments |
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| <b>USA PATRIOT Act Reauthorization and Related Matters</b>   |   |  |          |
| <p>Under Section 224 of the USA PATRIOT Act, 18 U.S.C. 2510 note, the following sections of the Act expire on December 31, 2005:</p> <p>Sec. 201 (wiretapping: terrorism predicate offenses)</p> <p>Sec. 202 (wiretapping: computer predicate offenses)</p> <p>Sec. 203(b)(wiretapping: sharing foreign intell. info.)</p> <p>Sec. 203(d)(law enforcement sharing foreign intell.info.)</p> <p>Sec. 204 (ECPA foreign system pen register/trap &amp; trace exception)</p> <p>Sec. 206 (roving FISA wiretaps)</p> <p>Sec. 207 (duration of FISA orders)</p> <p>Sec. 209 (access to stored voice mail)</p> <p>Sec. 212 (emergency access to e-mail)</p> <p>Sec. 213 (delayed notice of sneak &amp; peek)</p> <p>Sec. 214 (FISA pen register/trap &amp; trace)</p> <p>Sec. 215 (FISA access to business records)</p> <p>Sec. 217 (computer trespasser communications)</p> <p>Sec. 218 (the wall)</p> <p>Sec. 220 (nation-wide service of ISP orders)</p> <p>Sec. 223 (sanctions)</p> <p>Sec. 225 (FISA helper immunity)</p> | <p><b>Sec. 102(a).</b> (a) Repeals section 224 of the USA PATRIOT Act (except as noted below all expiring sections made permanent).</p> | <p><b>Sec. 9(a).</b> (a) Repeals section 224(a) of the USA PATRIOT Act (except as noted below all expiring sections made permanent).</p> |          |
|  | <p><b>Sec. 102(b).</b> Postpones expiration of sec. 206 until December 31, 2009.</p>  | <p><b>Sec. 9(a).</b> Postpones expiration of sec. 206 until December 31, 2009.</p>   |          |
|  | <p><b>Sec.102(b).</b> Postpones expiration of sec. 215 until December 31, 2009.</p>   | <p><b>Sec.9(a).</b> Postpones expiration of sec. 215 until December 31, 2009.</p>  |          |
| <p>Section 6001 of the Intelligence Reform and Terrorism Prevention Act (IRTPA), amends the FISA definition of “agents of</p>  | <p><b>Sec.103.</b> Postpones expiration of sec. 6601until December 31, 2009.</p>  | <p><b>Sec.9(b).</b> Postpones expiration of sec. 6601until December 31, 2009.</p>  |          |

| Present law  | H.R. 3199 (Conference Report)<br>USA PATRIOT and Terrorism<br>Prevention Reauthorization Act of<br>2005  | H.R. 3199 (Senate Passed(S. 1389))<br>USA PATRIOT Improvement and<br>Reauthorization Act of 2005  | Comments |
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| <b>USA PATRIOT Act Reauthorization and Related Matters</b>   |  |   |          |
| a foreign power” to include foreign nationals preparing for or engaging in terrorist activities, 50 U.S.C. 1801(b)(1)(C), and expires on December 31, 2005.  |  |   |          |
| Section 6603 amends law relating to 18 U.S.C. 2339B (material support of terr. org.) to clarify the definition of “material support,” the knowledge element of the crime, its extritorial reach, and to add certain crimes to predicate offense list in 18 U.S.C. 2339A(material support of terrorist crimes) and to the list of federal crimes of terrorism (18 U.S.C. 2332b(g)(5)(B)); sec. 6603 expires on December 31, 2006. | <b>Sec.104.</b> Makes sec. 6603 permanent.   | <b>Sec.9(c).</b> Makes sec. 6603 permanent.   |          |
| Section 207 of the USA PATRIOT Act extends the life time of FISA surveillance and search orders and extensions relating to non U.S. persons who are agents of foreign powers by virtue of their employment by foreign powers or their membership in an international terrorist group, 50 U.S.C. 1805(e), 1824(d).  | <b>Sec.105.</b> Extends the tenure of FISA surveillance and search orders to <i>any</i> agents of a foreign power who are not U.S. persons (e.g. lone wolf terrorists), 50 U.S.C. 1805(e), 1824(d). Extends the life time of FISA pen register/trap & trace orders and extensions from 90 days to 1 year when the information to be obtained does not involve a U.S. person, 50 U.S.C. 1842(e)(2). | <b>Sec.3.</b> Comparable provisions.  |          |
| FISA orders for access to tangible items have no explicit exception for library, bookstore, or any other particular business record, 50 U.S.C. 1861.   | <b>Sec.106(a).</b> Orders for the production of certain library, bookstore, firearm sales, tax return, educational or medical records must be approved by the FBI Director or Deputy Director or Executive Assistant Director, 50 U.S.C. 1861(a)((3).  | <b>Sec.7(c).</b> Orders for the production of certain library, bookstore, firearm sales, or medical records must be approved by the FBI Director or Deputy Director, 50 U.S.C. 1861(a)((3). |          |
| Section 215 of the USA PATRIOT Act authorizes FISA orders for the production of tangible items for investigations to   | <b>Sec.106(b).</b> Requires applications (A) to demonstrate reasonable grounds to believe the tangible things sought are   | <b>Sec.7(a).</b> Requires applications to demonstrate reasonable grounds to believe the information sought pertains   |          |

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|--|---|---|--|
| <b>USA PATRIOT Act Reauthorization and Related Matters</b>   |   |   |  |
| obtain foreign intelligence information and to protect against international terrorism and espionage, 50 U.S.C. 1861.                    | relevant to an investigation to protect against intern'l terrorism or spying or to obtain for.intell.info. not concerning a U.S. person; relevancy is presumed if they pertain to a foreign power or agent of a foreign power, or to the activities of a suspected agent of a foreign power who is the target of the investigation, or to an individual in contact with or known to a suspected agent of a foreign power who is the target of the investigation, and (B) to include an enumeration of minimization procedures, 50 U.S.C. 1861(b)(2) | to, or is relevant to the activities of, a foreign power or agent of a foreign power, or pertains to an individual in contact with or known to a suspected agent of a foreign power, 50 U.S.C. 1861(b)(2).  |  |
|  | <b>Sec.106(c).</b> FISA access orders are issued as requested or modified upon a finding the application complies with statutory requirements, and with directions to adhere to minimization requirements, 50 U.S.C. 1861(c).   | <b>Sec.7(a)(2).</b> Comparable provision but without the reference to minimization standards, 50 U.S.C. 1861(c).  |  |
|  | <b>Sec.106(d).</b> Orders must contain a particularized description of the items sought, provide for a reasonable time to assemble them, notify recipients of nondisclosure requirements, and be limited to things subject to a grand jury subpoena <i>or order of a U.S. court for production</i> , 50 U.S.C. 1861(c).   | <b>Sec.7(b).</b> Orders must contain a particularized description of the items sought, provide for a reasonable time to assemble them, notify recipients of nondisclosure requirements, and be limited to things subject to a grand jury subpoena, 50 U.S.C. 1861(c). |  |
| Recipients of section 215 FISA orders may not disclose their existence or content except as necessary for compliance, 50 U.S.C. 1861(d). | <b>Sec.106(e).</b> Also permits disclosure to the recipient's attorney, and with FBI approval to others, 50 U.S.C. 1961(1); recipients may be required to notify the FBI of those to whom they intend disclose, but may not be required to provide notification of an intent to seek legal assistance, 50 U.S.C. 1861(d)(2).  | <b>Sec.7(d).</b> Also permits disclosure to the recipient's attorney, and with FBI approval to others, 50 U.S.C. 1861(d).   | <b>Sec.4(a) (S. 2271).</b> Replaces sec. 106(d) (2) of the conference bill with a provision that requires the recipient, upon the FBI's request, to notify the FBI of those to whom disclosure has been or is to be made, but requiring no notification of disclosure or anticipated disclosure to the recipient's attorney, 50 U.S.C. 1861(d) |

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| <b>USA PATRIOT Act Reauthorization and Related Matters</b>   |  |   |  |
|  |  |   | (2).   |
|  | <b>Sec.106(f)</b> . Authorizes recipients to seek FISA court review of a FISA tangible item order; the assigned judge may dismiss the petition as frivolous, deny the petition, or modify or rescind the order if it does not comply with the statute or is otherwise unlawful; FISA court decision is subject to Review Court review and S.Ct. review; authorizes the Chief Justice in consultation with the Attorney General and Director of National Intelligence to establish security rules., 50 U.S.C. 1803(e), 1861(f). | <b>Sec.7(e), (b)</b> .Authorizes recipients to seek FISA court review of a FISA tangible item order; unlawful orders or gag orders and orders requiring production that could be quashed in the case of a grand jury subpoena (unreasonable, oppressive, or privileged) may be modified or set aside; FISA court decision is subject to Review Court review and S.Ct. review; Authorizes the Chief Justice in consultation with the Attorney General and Director of National Intelligence to establish security rules, 50 U.S.C. 1861(f), (b)(2)(D). | <b>Sec.3 (S. 2271)</b> . Adds to sec. 106(f) of the conference bill authority for recipients to annually petition the FISA court to quash or modify the gag order (after the 1 <sup>st</sup> year of issuance); the court may do so if the judge finds no reason to believe disclosure may endanger national security, interfere with an investigation or diplomatic relations or endanger an individual; DoJ certification of such adverse impact is conclusive in the absence of bad faith, 50 U.S.C. 1861(f). |
|  | <b>Sec.106(g)</b> . Directs the Attorney General to promulgate minimization standards for the collection and dissemination of information obtained through the use of FISA tangible item orders, 50 U.S.C. 1861(g).  | No comparable provision.  |  |
|  | Requires observance of minimization requirements; declares that information does not lose its privileged status simply because it was acquired thru use of a tangible item order; limits use to law purposes, 50 U.S.C. 1861(h).   | No comparable provision.  |  |
| Section 215 requires the Attorney General to fully inform the House and Senate Intelligence Committees of all requests under the section’s authority twice a year, and to provide the Judiciary Committees with statistical reports on section’s use twice a year, 50 U.S.C. 1862. | <b>Sec.106(h)</b> . Amends the provision to require annual reporting in both instances; adds the Senate Judiciary Committee to the recipients of full reports; requires inclusion of statistical information concerning orders for the production of certain library, book store, firearm sales, medical, tax, and <i>educational</i> records to the Judiciary and   | <b>Sec.7(f)</b> . Amends the provision to require annual reporting in both instances; adds the Judiciary Committees to the list of recipients of full reports; requires inclusion of statistical information concerning orders for the production of certain library, book store, firearm sales, medical, and tax records with the statistical report to Congress and the   |  |



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| <b>USA PATRIOT Act Reauthorization and Related Matters</b>  |  |  |          |
|   | Intelligence Committees, 50 U.S.C. 1862.   | Administrative of U.S. Courts, 50 U.S.C. 1862.   |          |
|   | <b>Sec.106A.</b> Provides for DoJ Inspector General audit (with detailed requirements) to determine effectiveness and identify any abuse in re use of FISA tangible item authority with the results to be reported to the Intelligence and Judiciary Committees. | No comparable provision.   |          |
| Federal law permits communications providers to disclose the content of stored electronic communications with authorities in emergencies involving a risk of serious injury and to disclose customer records in emergencies involving an immediate risk of serious injury, 18 U.S.C. 2702(b)(8), (c)(4).  | <b>Sec.107(a).</b> Requires the Attorney General to report to the Judiciary Committees annually on content disclosures under sec. 2702(b)(8).  | <b>Sec.4(a).</b> Comparable provision.   |          |
|   | <b>Sec.107(b).</b> Removes the immediacy requirement from the record disclosure provision, 18 U.S.C. 2702(c)(4), and defines federal and state departments and agencies as the governmental entities to whom record disclosures may be made, 18 U.S.C. 2711(4).  | <b>Sec.4(b).</b> Comparable provision.   |          |
| FISA permits issuance of a surveillance order requires that the target be identified or described, the nature and location of the facility or place under surveillance be identified (if known), and the 3d parties ordered to assist be specifically identified (unless the target is likely to take steps to thwart their identification)(roving wiretaps), 50 U.S.C. 1805. | <b>Sec. 108(a).</b> Makes it clear that the FISA court must find the prospect of thwart based on specific facts in the application, 50 U.S.C. 1805(c)(2)(B).   | No comparable provision.   |          |
|   | No comparable provision.   | <b>Sec.2(a).</b> Requires that the target be described with particularity if his identity and the nature and location of facilities or places to be under surveillance are unknown, 50 U.S.C. 1805(c)(1)(A). |          |

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| <b>USA PATRIOT Act Reauthorization and Related Matters</b>   |   |   |          |
|  | <b>Sec. 108(b).</b> Requires in no case later than 10 days ( <i>with a good cause showing within 60 days</i> ), notice, justifying and minimization information be given the issuing FISA court <i>including the number of surveillances conducted or planned</i> when the execution of a FISA surveillance order becomes roving.           | <b>Sec.2(b).</b> Requires within 10 days additional notice, justifying and minimization information be given to the issuing FISA court when the execution of a FISA surveillance order becomes roving.  |          |
|  | <b>Sec.108(c).</b> Names the Senate Judiciary Committee as a recipient of FISA reports expanded to include information on roving surveillance.  | <b>Sec.2(c).</b> Names Judiciary Committees as recipients of FISA reports expanded to include information on roving surveillance.   |          |
| FISA requires the Attorney General to make full reports concerning FISA search authority to the House and Senate intelligence committees and statistical reports to the House and Senate Judiciary Committees, 50 U.S.C. 1826. | <b>Sec.109(a).</b> Requires the Attorney General to make full reports to the Senate Judiciary Committee as well and to transmit to the House Judiciary Committee the statistical information relating to the use FISA emergency search authority, proposed 50 U.S.C. 1826.  | <b>Sec.10(b)(2).</b> Requires the Attorney General to make full reports to the House and Senate Judiciary Committees as well and to include statistical information relating to the use FISA emergency search authority, proposed 50 U.S.C. 1826. |          |
|  | <b>Sec.109(c).</b> Directs the Department of Homeland Security to report twice a year to the Judiciary Committees on the internal affairs operations of the Citizenship and Immigration Services.   | No comparable provision.  |          |
| FISA is silent as to the rule making authority of the FISA courts, 50 U.S.C. 1801 et seq.  | <b>Sec.109(d).</b> Authorizes the FISA courts to establish rules and procedures for administration of the Act, and to transmit them in unclassified form (possibly with a classified annex) to the judges of the FISA courts, the Chief Justice and the House and Senate Judiciary and Intelligence Committees, proposed 50 U.S.C. 1803(f). | <b>Sec.10(a).</b> Comparable provision.   |          |
| One federal statute outlaws train  | <b>Sec.110.</b> Merges sections 1992 and 1993   | No comparable provision.  |          |

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| wrecking; 18 U.S.C. 1992; another<br>outlaws attacks on mass transit, 18<br>U.S.C. 1993.   | into a new section 1992; provides<br>uniform penalty and jurisdictional<br>standards; increases the penalties for<br>aggravated offenses to imprisonment for<br>any term of years or for life and where<br>death results to imprisonment for life or<br>death, 18 U.S.C. 1992.  |  |          |
| Federal law permits U.S. confiscation of<br>property within U.S. jurisdiction derived<br>from certain drug offenses committed in<br>violation of foreign law, 18 U.S.C.<br>981(a)(1)(B); it also permits U.S.<br>confiscation of property associated with<br>certain terrorist offenses, 18 U.S.C.<br>981(a)(1) (G). | <b>Sec.111.</b> Authorizes the confiscation of<br>property within U.S. jurisdiction<br>constituting the proceeds from or used to<br>facilitate the commission of any offense<br>which involves “trafficking in nuclear,<br>chemical, biological, or radiological<br>weapons technology or material” and<br>which is punishable under foreign law by<br>death or imprisonment for a term<br>exceeding one year or would be so<br>punishable if committed within U.S<br>jurisdiction, amending 18 U.S.C. 981(a)<br>(1)(B)(i). | No comparable provision.   |          |
| Crimes designated as federal crimes of<br>terrorism (18 U.S.C. 2332b(g)(5)) trigger<br>the application of other federal laws, e.g.,<br>18 U.S.C. 1961(1)(g)(RICO predicates),<br>3142 (bail), 3286 (statute of limitations),<br>3583 (supervised release).   | <b>Sec.112.</b> Adds 18 U.S.C. 2339D (relating<br>to military-type training from a foreign<br>terrorist organization) and 18 U.S.C. 832<br>(relating to nuclear and weapons of mass<br>destruction threats) to the list of federal<br>crimes of terrorism, 18 U.S.C. 2332b(g)<br>(5)(B)(i).   | No comparable provision.   |          |
| Federal law authorizes judicially<br>supervised law enforcement interception<br>of wire, oral or electronic<br>communications (wiretapping) in the<br>investigation of certain crimes (predicate<br>offenses), 18 U.S.C. 2516(1).  | <b>Sec.113.</b> Adds the following offenses to<br>the wiretapping predicate offense list: 18<br>U.S.C. 37(violence at international<br>airports), 81 (arson), 175b (biological<br>agents), 832 (nuclear and weapons of<br>mass destruction threats), 930<br>(possession of weapons in federal<br>facilities), 956 (conspiracy to commit<br>violence overseas), 1028A (aggravated  | No comparable provision.   |          |

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|   | <p>identify theft); 1114 (killing federal employees), 1116 (killing certain foreign officials), 1992 (attacks on mass transit), 2155-2156 (national defense property offenses), 2280 (violence against maritime navigation), 2281 (violence against fixed maritime platforms), 2340A (torture), 1028A (aggravated identity theft), 2339 (harboring terrorists), and 2339D (terrorist military training); 15 U.S.C. 1, 2, 3 (Sherman Act anti-trust violations); 31 U.S.C. 5324 (smurfing); 49 U.S.C. 46504 (assault of a flight crew member with a dangerous weapon), 46503(b)(3),(c)(explosives abroad an aircraft), 18 U.S.C. 2516.</p> |   |          |
| <p>Federal law authorizes delayed notification of the execution of a sneak and peek search warrant for a reasonable period of time (with the possibility of extensions) when disclosure may result in flight, destruction of evidence, intimidation of a witness, danger to an individual, serious jeopardy to an investigation, or undue trial delay, 18 U.S.C. 3103a.</p> | <p><b>Sec.114.</b> Permits delays of no more than 30 days (or a later date certain if the facts justify) with 90 days extensions (or longer if the facts justify).</p>  | <p><b>Sec. 5.</b> Permits delays of no more than 7 days (or date certain if the facts justify) with 90 days extensions as the facts justify).</p> |          |
|   | <p>Eliminates trial delay as a justification.</p>   | <p>Comparable provision.</p>  |          |
|   | <p>Requires detailed annual, public reports thru the Administrative Office of U.S. Courts on use of the authority, 18 U.S.C. 3103a.</p>   | <p>Comparable provision.</p>  |          |

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| <b>USA PATRIOT Act Reauthorization and Related Matters</b>  |  |  |   |
| <p><u>Judicial review and enforcement of National Security Letters (NSL):</u><br/> <i>18 U.S.C. 2709(b)</i>: No comparable provisions<br/> <i>15 U.S.C. 1681v</i>: No comparable provisions<br/> <i>15 U.S.C. 1681u</i>: FBI may seek information through an ex parte court order<br/> <i>12 U.S.C. 3414(a)(5)</i>: No comparable provisions<br/> <i>50 U.S.C.436</i>:No comparable provisions.</p> | <p><b>Sec.115.</b> Authorizes judicial enforcement of NSLs; the court may quash or modify a request if compliance would be unreasonable, oppressive or otherwise unlawful, 28 U.S.C. 3511(a).</p>  | <p><b>Sec.8(a), (c).</b> Amends 18 U.S.C. 2709 to permit judicial enforcement in U.S. district court of orders under that section; the court may quash or modify a request if compliance would be unreasonable or oppressive or violate any constitutional or other legal right or privilege, 18 U.S.C. 2709((a)(2).</p>   |   |
|   | <p><b>Sec.115.</b> Recipients may petition to have nondisclosure orders lifted or modified once a year and petitions may be granted upon a finding there is no reason to believe disclosure may endanger national security, or interfere with an investigation or diplomatic relations, or endanger a life. Good faith certification of such danger by senior agency officials is conclusive, 28 U.S.C. 3511(b).</p> | <p><b>Sec.8(b).</b> Recipients may petition to have nondisclosure orders lifted or modified at any time and petitions may be granted upon a finding there is no reason to believe disclosure may endanger national security, or interfere with an investigation or diplomatic relations, or endanger a life. Good faith governmental certification of a danger of national security or interference with diplomatic relations is conclusive, 18 U.S.C. 2709(c)(4).</p> |   |
|   | <p><b>Sec.115</b> Disobedience of the U.S. district court’s order to respond to NSL is punishable as contempt, 28 U.S.C. 3511(c).</p>  | <p>No comparable provision.</p>  |   |
|   | <p><b>Sec.115.</b> Proceedings are closed (except contempt proceedings) and government may request that its evidence be considered ex parte and in camera, 28 U.S.C. 3511(d),(e).</p>  | <p><b>Sec. (d).</b> Classified Information Procedure Act provisions apply, 18 U.S.C. 2709((b),(c).</p>   |   |
| <p><u>Nondisclosure provisions:</u><br/> <i>18 U.S.C. 2709</i>: general prohibition against disclosure; no explicit exceptions, penalties for violation, or provisions for termination<br/> <i>15 U.S.C. 1681v</i>: general prohibition against disclosure; no explicit exceptions,</p>   | <p><b>Sec.116.</b> Amends the NSL statutes to provide for nondisclosure orders when the investigative agency determines that the disclosure may endanger any individual or national security, or interfere with diplomatic relations or a criminal or intelligence investigation.</p>  | <p>No comparable provision.<br/><br/> <b>Sec.8.</b> Amends 18 U.S.C. 2709 to permit disclosure to: those necessary for compliance; an attorney for legal advice.<br/><br/>                     No comparable provision.</p>  | <p><b>Sec.4(b)-(e) (S. 2271).</b> Amends the conference bill to add language to each NSL statute requiring recipients to notify the authority issuing the letter and identify the individuals to whom they have disclosed or will disclose the request, but expressly providing that they</p> |

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| <p>penalties for violation, or provisions for termination<br/> <i>15 U.S.C. 1681u</i>: general prohibition against disclosure; no explicit exceptions, penalties for violation, or provisions for termination<br/> <i>12 U.S.C. 3414(a)(5)</i>: general ban on disclosure; no explicit exceptions, penalties for violation, or provisions for termination<br/> <i>50 U.S.C. 436(b)</i>: general ban on disclosure; no explicit exceptions, penalties for violation, or provisions for termination.</p> | <p>Amends the NSL statutes to permit disclosure to: those necessary for compliance; an attorney for legal advice. Permits a requirement that recipients advise government authorities of any anticipated disclosure but recipients may not be required to provide notification of an intent to seek legal advice.</p> |  | <p>are not required to identify their attorneys.</p>   |
|  | <p><b>Sec.117.</b> Violations of the nondisclosure requirements are punishable by imprisonment for not more than 1 year (imprisonment for not more than 5 years if committed with an intent to obstruct), 18 U.S.C. 1510(e).</p>  | <p>No comparable provision.</p>  |  |
|  | <p>No comparable provision.</p>   | <p>No comparable provision.</p>  | <p><b>Sec.5. (S. 2271).</b> Amends the communications NSL statute to make it clear that libraries that provide computer walk up service are not to be considered communications providers for purposes of the NSL statute, 18U.S.C. 2709(f).</p> |
| <p><u>Reports to Congress:</u><br/> <i>18 U.S.C. 2709(e)</i>: Requires FBI reports to the Intelligence and Judiciary Committees every six months<br/> <i>15 U.S.C. 1681v</i>:No comparable provisions<br/> <i>15 U.S.C. 1681u(h)</i>: Requires FBI reports to the Intelligence and banking Committees every six months<br/> <i>12 U.S.C. 3414(a)(5)</i>: No comparable</p>   | <p><b>Sec.118.</b> Requires that any reports to a Congressional committee on NSLs shall also be provided to the Judiciary Committees.<br/>                     Requires detailed reports on use of the authority to the Judiciary Committees and certain other jurisdictional committees.</p>                         | <p>No comparable provision.</p>  |  |

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| provisions<br>50 U.S.C. 436: No comparable<br>provisions  |   |  |          |
|   | <b>Sec.119.</b> Directs the DoJ Inspector General to conducted a detailed audit of effectiveness and any abuse of the NSLs authority; calls for the submission to Congress of proposed minimization procedures to ensure the protection of constitutional rights.                                       | No comparable provision.   |          |
| Federal law (18 U.S.C. 981(a)(1)(G)) authorizes the confiscation of property derived from or used to facilitate international or domestic terrorism as defined in 18 U.S.C. 2331 (which defines terrorism generically: acts dangerous to human life in violation of state or federal criminal law); an alternative definition, federal crimes of terrorism, lists specific federal crimes that qualify for the definition, 18 U.S.C. 2332b(g)(5) (B). | <b>Sec.120.</b> Changes the cross reference in the confiscation provision <i>from</i> section 2331 defined international or domestic terrorism <i>to</i> international or domestic terrorism (as defined in 2332b(g)(5)(B)).  | No comparable provision.   |          |
| Federal law prohibits trafficking in contraband cigarettes (i.e., more than 60,000 cigarettes without tax stamps), 18 U.S.C. 2341-2346.   | <b>Sec.121.</b> Lowers the threshold to 10,000 cigarettes or 500 cans or packages of smokeless tobacco; and creates a federal cause of action against violators (other than Indian tribes or Indians in Indian country) for manufacturers, exporters, and state and local authorities.                  | No comparable provision.   |          |
| Federal law prohibits drug trafficking, 21 U.S.C. 841-971; and providing material support for terrorists or designated terrorist organizations, 18 U.S.C. 2339A, 2339B.   | <b>Sec.122.</b> Makes it a federal crime to engage in drug trafficking for the benefit of a foreign terrorist organization or of a person planning or committing a terrorist offense (punishable by imprisonment for less than twice the term otherwise authorized nor more than life), 21 U.S.C. 960A. | No comparable provision.   |          |

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| Destruction of aircraft or their facilities is a federal crime, 18 U.S.C. 32.  | <b>Sec.123.</b> Amends sec. 32 to outlaw interfering with or disabling a pilot or air navigation facility operator with intent to endanger or with regardless disregard for human safety.  | No comparable provision.   |          |
| FISA provisions preclude the exercise of authority in an investigation based solely upon the exercise of 1 <sup>st</sup> Amendment protected rights, e.g., 50 U.S.C. 1805(a)(3).   | <b>Sec.124.</b> Pronounces the sense of Congress that federal criminal investigations should not be premised solely upon a citizen's engaging in lawful political activity or membership in a non-violent political organization.  | No comparable provision.   |          |
|  | <b>Sec.125.</b> Establishes immunity from civil liability (other than gross negligence or intentional misconduct) for anyone who donates fire equipment to a volunteer fire company, other than a fire equipment manufacturer or some one who has modified or altered the equipment after recertification. | No comparable provision.   |          |
| The Privacy Act regulates the government's management of its individually identifying system of records, 5 U.S.C. 552a.  | <b>Sec.126.</b> Instructs the Attorney General to report to Congress on the data-mining activities conducted by the various federal agencies and departments.  | No comparable provision.   |          |
| Property related to certain federal crimes is subject to confiscation by the U.S., e.g., 18 U.S.C. 981.  | <b>Sec.127.</b> Expresses the sense of Congress that the victims of terrorist attacks should have access to the assets forfeited.  | No comparable provision.   |          |
| USA PATRIOT Act expands FISA pen register authority to include electronic communications, 50 U.S.C. 1842, 1843. FISA requires full reports on use of FISA pen register authority to congressional intelligence committees twice a year, 50 U.S.C. 1846(a). | <b>Sec.128.</b> Upon applicant request, requires providers to supply available customer information relating to communications subject to FISA pen register orders, 50 U.S.C. 1842(d)(2)(C).<br><br>Requires full reports to congressional judiciary committees twice a year as well, 50 U.S.C. 1846(a).   | <b>Sec. 6.</b> Comparable provision  |          |



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| <b>Terrorism Death Penalty Enhancement</b>  |  |  |          |
| <p>In 1974, Congress enacted air piracy legislation with death penalty procedures designed overcome the Eighth Amendment limitations that made other federal capital punishment provisions unenforceable; in 1994 when Congress enacted legislation to revive capital punishment as a sentencing option in federal capital cases generally it did not expressly indicate whether the 1994 procedures were to apply to the cases that theretofore fall under the 1974 legislation.</p> | <p><b>Sec.211.</b> Makes the 1994 procedures applicable to post 1974, pre-1994 air piracy murder cases.</p>  | <p>No comparable provision.</p>  |          |
| <p>Existing law authorizes imposition of a supervisory release term of any term of years or for life in the case of conviction for a federal crime of terrorism, if offense involved a risk of serious bodily injury, 18 U.S.C. 3583(j).</p>  | <p><b>Sec.212.</b> Authorizes supervised release for any term of years or for life in cases of federal crimes of terrorism, regardless of whether the offense involved a risk of serious injury.</p>   | <p>No comparable provision.</p>  |          |
| <p>Congress authorized imposition of the death penalty in certain drug king-pin cases in 1988, 21 U.S.C. 848; in 1994 it established general procedures for federal capital cases which differ slightly from the drug provisions, 18 U.S.C. 3591-3598; subsection 848(q) provides assistance of counsel for indigent death row habeas petitioners.</p>  | <p><b>Sec.221, 222.</b> Repeals the drug king-pin capital procedures of 21 U.S.C. 848; transfers the provisions for counsel for indigent death row habeas petitioners to title 18, 18 U.S.C. 3599.</p> | <p>No comparable provision.</p>  |          |

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| Federal law outlaws the use of false pretenses to gain entry to the secured areas in an airport; violations are punishable by imprisonment for not more than 5 years committed with the intent to commit a felony, 18 U.S.C. 1036.                                    | <b>Sec.302.</b> Makes the section applicable to gaining entry to a seaport by false pretenses; increases the maximum penalty for false entry to imprisonment for not more than 10 years; provides a new definition of seaport (18 U.S.C. 26).  | No comparable provision.   |          |
| Various federal laws prohibit the failure to heave to or otherwise obstruct maritime inspection under various circumstances, e.g., 16 U.S.C. 2435, 2438 (enforcement of the Antarctic Marine Living Resources Convention), 5505, 5508 (high seas fishing compliance). | <b>Sec.303.</b> Outlaws failure to heave to or obstructing an authorized federal law enforcement officer; violations are punishable by imprisonment for not more than 5 years and/or a fine of not more than \$250,000, 18 U.S.C. 2237.  | No comparable provision.   |          |
| Existing federal law proscribes violence against maritime navigation, 18 U.S.C. 2280, burning or bombing vessels, 2275, or destruction of property within U.S. special maritime jurisdiction, 1363.   | <b>Sec.304.</b> Establishes a new criminal offense prohibiting placing a dangerous device or substance in U.S. waters likely to destroy or damage ships or interfere with maritime commerce; violations are punishable by imprisonment for any term of years or life and/or a fine of not more than \$250,000, proposed 18 U.S.C. 2282A.<br>Creates a second criminal provision outlawing violence against aids to maritime navigation maintained by the Coast Guard and St. Lawrence Seaway Development Corp. proposed 18 U.S.C. 2282B. | No comparable provision.   |          |

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| <p>Federal law outlaws possession of biological agents, chemical weapons, atomic weapons, nuclear material, each punishable by imprisonment for any term of years or for life, 18 U.S.C. 175, 229, 831; 42 U.S.C. 2272; aiding or abetting the commission of a federal crime of terrorism which carries the same punishment as the underlying offense, 18 U.S.C. 2; and harboring a terrorist, 18 U.S.C. 2339 (punishable by imprisonment for not more than 10 years).</p> | <p><b>Sec.305.</b> Creates two new federal crimes, 18 U.S.C. 2283 (transporting explosive, biological, chemical, or radioactive or nuclear material aboard a vessel believing they will be used to commit a federal crime of terrorism) and 18 U.S.C. 2284 (transporting a terrorist aboard a vessel believing the terrorist intends to commit or is fleeing following the commission of a federal crime of terrorism); both offenses are punishable by imprisonment for any term of years or for life; the death penalty may be imposed for a violation of 18 U.S.C. 2283 if death results.</p> | <p>No comparable provision.</p>  |          |

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| <p>18 U.S.C. ch. 111 outlaws damage or destruction of vessels and maritime facilities, e.g., 18 U.S.C. 2280 (violence against maritime navigation), 2275 (burning or bombing vessels); other federal statutes supply parallel coverage under some circumstances, e.g., 18 U.S.C. 1363(damage or destruction of property within U.S. special maritime jurisdiction), 81(arson within U.S. special maritime jurisdiction), 844(i)(burning or bombing property used in interstate or foreign commerce); hoaxes relating to violations of ch. 111 are punishable by imprisonment for not more than 5 years (not more than 20 years if serious injury results and if death results, by imprisonment for any term of years or for life or by death), 18 U.S.C. 1038.</p> | <p><b>Sec.306.</b> Establishes a new chapter 111A in title 18 relating to the destruction of, or interference with, vessels or maritime facilities which among other things: makes violence — committed, attempted or conspired — against vessels or their facilities punishable by imprisonment for not more than 20 years (by imprisonment for any term of years or life if the offense involves a vessel carrying high level radioactive waste or spent nuclear fuel; if death results, by imprisonment for any term of years or for life or by death); and makes threats to do so punishable by imprisonment for not more than 5 years, proposed 18 U.S.C. 2291; makes related hoaxes punishable by a civil fine of not more than \$5000 or imprisonment for not more than 5 years, proposed 18 U.S.C. 2292; establishes U.S. jurisdiction over offenses committed overseas when the offender, victim, or vessel is an American, proposed 18 U.S.C. 2290.</p> | <p>No comparable provision.</p>  |          |
| <p>Federal law prohibits theft from interstate or foreign shipment; violations are punishable by imprisonment for not more than 10 years (not more 1 year if the value of the stolen property is \$1000 or less), 18 U.S.C. 659.</p>   | <p><b>Sec.307(a).</b> Increases the penalty from not more than 1 year to not more than 3 years if the value of the stolen property is \$1000 or less; makes clear that theft from trailers, cargo containers, freight stations, and warehouses are covered; makes clear that the theft of goods awaiting transshipment is also covered.</p>   | <p>No comparable provision.</p>  |          |

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| <p>Interstate or foreign transportation of a stolen vehicle or aircraft is punishable by imprisonment for not more than 10 years, 18 U.S.C. 2312; receipt of a stolen vehicle or aircraft that has been transported in interstate or foreign commerce carries the same penalty, 18 U.S.C. 2313.</p> | <p><b>Sec.307(b)-(e).</b> Expands the coverage of the federal law to cover the interstate or foreign transportation of a stolen vessel and receipt of a stolen vessel that has been transported in interstate or overseas. Instructs the U.S. Sentencing Commission to review the sentencing guidelines applicable to violations of 18 U.S.C. 659 and 18 U.S.C. 2311. Directs the Attorney General to see to the inclusion of cargo thefts included in the Uniform Crime Reporting System and to report to Congress annually on law enforcement activities relating to theft from interstate or foreign shipments in violation of 18 U.S.C. 659.</p> | <p>No comparable provision.</p>  |          |
| <p>Stowaways on a vessel or aircraft are punishable by imprisonment for not more than 1 year, 18 U.S.C. 2199.</p>   | <p><b>Sec.308.</b> Increases the penalty for stowaways from not more than 1 year to not more than 5 years; or to not more than 20 years if the offense is committed with the intent to inflict serious injury upon another or if serious injury to another results; or if death results, to imprisonment for any term of years or for life, 18 U.S.C. 2199.</p>  | <p>No comparable provision.</p>  |          |

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| <p>Bribery of a federal official is punishable by imprisonment for not more than 15 years, 18 U.S.C. 201; many federal terrorism crimes carry maximum penalties of imprisonment for 20 years or more, e.g., 18 U.S.C. 32 (destruction of aircraft, 20 years), 81 (arson, 25 years), 2332a (weapons of mass destruction, life); those who aid or abet their commission are subject to the same penalties, 18 U.S.C. 2, as are coconspirators, <i>United States v. Pinkerton</i>, 328 U.S. 640 (1946).</p>  | <p><b>Sec.309.</b> Makes it a new federal crime to bribe any individual (private or public) with respect to various activities within any secure or restricted area or seaport — with the intent to commit international or domestic terrorism (18 U.S.C. 2331); violations are punishable by imprisonment for not more than 15 years, 18 U.S.C. 226.</p> | <p>No comparable provision.</p>  |          |
| <p>In general, smuggling is punishable by imprisonment for not more than 5 years, 18 U.S.C. 545.</p>  | <p><b>Sec.310.</b> Increases the penalty for violations of section 545 (smuggling) from imprisonment for not more than 5 years to imprisonment for not more than 20 years.</p>  | <p>No comparable provision.</p>  |          |
| <p>The penalty for smuggling goods into foreign countries by the owners, operators, or crew of a vessel is imprisonment for not more than 5 years, 18 U.S.C. 546. The same penalty applies for smuggling goods into the U.S. generally, 18 U.S.C. 545, although section 312 above would increase the maximum to imprisonment for not more than 20 years. Other federal penalties apply for smuggling or unlawfully exporting various specific goods or materials out of the United States or into other countries, e.g., bulk cash smuggling, 21 U.S.C. 953 (controlled substances), 553 (stolen motor vehicles).</p> | <p><b>Sec.311(a).</b> Outlaws smuggling goods out of the U.S. in a new statute punishable by imprisonment for not more than 10 years, 18 U.S.C. 554.</p>  | <p>No comparable provision.</p>  |          |

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| Federal law prohibits laundering using the proceeds from various predicate offenses, 18 U.S.C. 1956, 1957; in addition to other penalties the assets involved are subject to confiscation, 18 U.S.C. 981(a)(1)(A). | <b>Sec.311(c)</b> . Adds the new section, 18 U.S.C. 554, to the money laundering predicate offense list.   | No comparable provisions.  |          |
| Federal law calls for the confiscation of goods smuggled into the U.S. and of conveyances used to smuggle them, 19 U.S.C. 1595a.   | <b>Sec.311(d)</b> . Calls for the confiscation of goods smuggled out of the U.S. and of the property used to facilitate the smuggling, proposed 19 U.S.C. 1595a(d).                          | No comparable provisions.  |          |
| Federal law penalizes removing goods from the custody of the Customs Service by imprisonment for not more than 2 years, 18 U.S.C. 549.   | <b>Sec.311(e)</b> . Increases the penalty for removing goods from the custody of the Customs Service from imprisonment for not more than 2 years to imprisonment for not more than 10 years. | No comparable provisions.  |          |

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| <b>Combating Terrorism Financing</b>  |   |  |          |
| <p>Violations of the Emergency Economic Powers Act which outlaws violations of presidential orders issued under the Act including but not limited to those that bar financial dealings with designated terrorist and terrorist groups are punishable by a civil penalty of not more than \$10,000 and by imprisonment for not more than 10 years, 50 U.S.C. 1705.</p>   | <p><b>Sec.402.</b> Increases the maximum term of imprisonment to not more than 20 years and changes the maximum civil penalty to \$50,000, 50 U.S.C. 1705.</p>  | <p>No comparable provision.</p>  |          |
| <p>Federal law imposes severe penalties (up to 20 years imprisonment) for acquiring or operating an enterprise through the pattern commission of any of a series of predicate offenses, 18 U.S.C. 1961-1965 (RICO).<br/>Federal law also proscribes laundering the proceeds of any of a series of predicate offenses, 18 U.S.C. 1956, 1957. Confiscation is a consequence of a RICO or money laundering violation, 18 U.S.C. 1963, 981. The proceeds from such confiscation are available to proportionately to the arresting and prosecuting agencies, 28 U.S.C. 524(c).</p> | <p><b>Sec.403.</b> Adds 18 U.S.C. 1960 (money transmitters) to the RICO list and consequently to the money laundering predicate offense list.<br/><br/>Amends the money laundering statute to provide a clear statement of the relative investigative jurisdiction of various federal agencies, 18 U.S.C. 1956(e), 1957(e).</p> | <p>No comparable provision.</p>  |          |



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| The property derived from or used to facilitate certain terrorist offenses committed against the U.S. is subject to confiscation, 18 U.S.C. 981(a)(1)(G).  | <b>Sec.404.</b> Authorizes the confiscation of property located within the U.S. of an individual or entity planning or committing an act of international terrorism against a foreign government or international organization where an act in furtherance of the plan or commission has occurred within the jurisdiction of the U.S. No nexus is required between the property and the misconduct other than ownership by the individual or entity, but the Constitution may limit the provision’s reach at least in some instances to property derived from or used to facilitate the misconduct, U.S.Const. Art. III, §3, cl.2, Amend. V. | No comparable provision.   |          |
| Federal law prohibits laundering the proceeds from various predicate offenses, 18 U.S.C. 1956, 1957; in addition to other penalties the assets involved are subject to confiscation, 18 U.S.C. 981(a)(1)(A)  | <b>Sec.405.</b> Outlaws each of any “dependent transactions” relating to a money laundering transaction (and thus subjects the assets involved to confiscation in addition to other penalties); defines a dependent transaction as one that complements, completes or would not have occurred but for the proscribed laundering financial transaction, 18 U.S.C. 1956(a)(1).   | No comparable provision.   |          |
| In money laundering confiscation cases involving property owned by a foreign person, federal law permits the federal court with jurisdiction over the foreign property owner to issue a pre-trial restraining order and appoint a federal receiver prior to adjudicating the merits of the confiscation, 18 U.S.C. 1956(b)(2),(3),(4). | <b>Sec. 406(a)(2).</b> Amends subsection 1956(b) apparently to permit pre-trial restraining orders and federal receivers regardless of whether the property owner is foreign or American.  | No comparable provision.   |          |

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| Federal law allows the substitution of assets held in this country by a foreign bank with overseas accounts containing forfeitable assets, 18 U.S.C. 981(k).  | <b>Sec. 406(a)(4).</b> Makes it clear that subsection 981(k) applies to foreign financial institutions and not just foreign banks.                                | No comparable provision.   |          |
| In order to avoid either arguable constitutional infirmity or the more generous coverage of otherwise applicable procedures, section 316 of the USA PATRIOT Act establishes certain procedural rights relating to property seized for confiscation as the assets of international terrorists.   | <b>Sec. 406(b).</b> Enacts subsections 316(a), (b), and (c) as part of title 18, 18 U.S.C. 987.   | No comparable provision.   |          |
| Federal law prohibits the destruction or attempted destruction of commercial motor vehicles or their facilities and punishes violations by imprisonment for not more than 20 years, 18 U.S.C. 33; the general conspiracy statute punishes conspiracy to the violate the provision by imprisonment for not more than 5 years, 18 U.S.C. 371. | <b>Sec. 406(c).</b> Amends section 33 so that conspiracy to violate its provisions carry the same 20 year maximum penalty as the underlying violations.           | No comparable provision.   |          |
| 31 U.S.C. 5318(n)(4) (A) contains an incomplete cross reference.  | <b>Sec.407.</b> In 31 U.S.C. 5318(n)(4)(A) changes National Intelligence Reform Act of 2004 to National Intelligence Reform and Terrorism Prevention Act of 2004. | No comparable provision.   |          |
| Section 6604 of the Intelligence Reform and Terrorist Prevention Act contains typographical errors.   | <b>Sec.408.</b> Amends section 6604 to change 2339c(c)(2) to 2339C(c)(2) and 2339c(e) to 2339C(e).  | No comparable provision.   |          |

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| <b>Combating Terrorism Financing</b>  |  |  |          |
| Federal law prohibits laundering the proceeds of various predicate offenses, 18 U.S.C. 1956, 1957; in addition to other penalties the assets involved are subject to confiscation, 18 U.S.C. 981(a)(1)(A); it also outlaws the receipt of foreign terrorist military training, 18 U.S.C. 2339D. | <b>Sec.409.</b> Adds receipt of foreign terrorist military training to the list of money laundering predicate offenses.  | No comparable provision.   |          |
| Federal law calls for the confiscation of property related to various criminal offenses; in some instances procedure is civil, in others it is criminal, e.g., 21 U.S.C. 881, 853.  | <b>Sec.410.</b> Gives the government the option of processing civil forfeitures as part of the criminal proceedings against the property owner, 28 U.S.C. 2461(c). | No comparable provision.   |          |

| Present law  | H.R. 3199 (Conference Report)<br>USA PATRIOT and Terrorism<br>Prevention Reauthorization Act of<br>2005  | H.R. 3199 (Senate Passed(S. 1389))<br>USA PATRIOT Improvement and<br>Reauthorization Act of 2005 | Comments |
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| <b>Miscellaneous Provisions</b>  |  |  |          |
| United States Attorneys are required to reside in the district for which they are appointed as a general rule, 28 U.S.C. 545.  | <b>Sec.501.</b> Permits the Attorney General or his designee to assign U.S. Attorneys to additional responsibilities exempting them from the residency requirement, 28 U.S.C. 545. | No comparable provision.   |          |
| Existing law permits the Attorney General to temporarily fill a U.S. Attorney vacancy, if after 120 days a permanent replacement has not been confirmed, the district court is empowered to name a temporary U.S. Attorney to serve until one is confirmed, 28 U.S.C. 546. | <b>Sec.502.</b> Eliminates the authority of the court and allows the temporary U.S. Attorney to serve until confirmation of a replacement, 28 U.S.C. 546.                          | No comparable provision.   |          |
| The heads of various federal departments come within the line of presidential succession, 3 U.S.C. 19(d)(1).   | <b>Sec.503.</b> Adds the Secretary of the Department of Homeland Security to the line of presidential succession, 3 U.S.C. 19(d)(1).   | No comparable provision.   |          |
| The heads of various federal agencies are subject to nomination and appointment following advice and consent of the Senate, U.S. Const. Art.II, §2. cl.2.  | <b>Sec.504.</b> Makes the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives an advice and consent position, 6 U.S.C. 531(a)(2).                                 | No comparable provision.   |          |
| United States Marshals are appointed for the various federal districts, 28 U.S.C. 561.   | <b>Sec.505.</b> Sets minimum statutory qualifications for U.S. Marshals, 28 U.S.C. 561.  | No comparable provision.   |          |
| Some DoJ components are creatures of statute, e.g., 28 U.S.C. 531 (F.B.I.); most are not.  | <b>Sec.506.</b> Creates a National Security Division headed by a statutory Assistant Attorney General for National Security within DoJ, 28 U.S.C. 507A, 506, 509A, etc.            | No comparable provision.   |          |

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| <b>Miscellaneous Provisions</b>  |  |  |          |
| Existing federal law affords qualified states an alternative procedures for capital habeas cases; qualification is predicated on the level of appointed counsel provided indigents in capital cases; no state has yet qualified, 28 U.S.C. 2265. | <b>Sec.507.</b> Permits the Attorney General rather than the courts to certify qualification under amended procedures, 28 U.S.C. 2261, 2265. | No comparable provision.   |          |

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| <b>Secret Service</b>  |   |  |          |
| Federal law prohibits disorderly conduct on federal property, and trespassing in places where the persons under Secret Service protection are visiting or residing; offenders are punishable by imprisonment for not more than 6 months, 18 U.S.C. 1752.   | <b>Sec.602.</b> Adds interference with “special security events” to the list of section 1752 offenses; increases the penalty to imprisonment of not more than 1 year (not more than 10 years if the offender uses or carries firearm, deadly or dangerous weapon), 18 U.S.C. 1752 . | No comparable provision.   |          |
| It is a federal crime to possess false government credentials, identification documents, or passes; the offense is punishable by imprisonment for not more than 1 year (for not more than 20 years if the offense is committed in connection with a crime of violence or a drug offenses; for not more than 30 years if committed in furtherance of act of domestic or international terrorism), 18 U.S.C. 1028. | <b>Sec.603.</b> Outlaws possession of identification, credentials, or passes issued by the sponsors of an event the President has designated at a “special event of national significance;” offenders are subject to the penalties under 18 U.S.C. 1028.                            | No comparable provision.   |          |
| Secret Service officers and employees are authorized to provide missing children assistance under some circumstances, 18 U.S.C. 3056(f).   | <b>Sec.604.</b> Amends subsection 3056(f) to provide that the “Secret Service” rather than “officers and employees of the Secret Service” may provide such assistance, 18 U.S.C. 3056(f).   | No comparable provision.   |          |
| The United States Secret Service Uniform Division is a creature of statute, 3 U.S.C. ch. 3.  | <b>Sec.605.</b> Transfers and revises the Division’s organic act, 18 U.S.C. 3056A.  | No comparable provision.   |          |
|  | <b>Sec.606.</b> Makes it clear that the transfer and revisions do not affect certain retirement benefits or certain authority of the Secretary of State.  | No comparable provision.   |          |

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| <b>Secret Service</b> |   |  |          |
|                       | <b>Sec.607.</b> Statutorily provides that the Secret Service is a distinct entity within the Department of Homeland Security, 18 U.S.C. 3056(g).  | No comparable provision.   |          |
|                       | <b>Sec.608.</b> Exempts the Advisory Committee Regarding Protection of Major Presidential and Vice Presidential Candidates and the Electronic Crimes Task Forces from the Federal Advisory Committee Act (5 U.S.C. App.2), 18 U.S.C. 3056(a)(7), 3056 note. | No comparable provision.   |          |

| Present law  | H.R. 3199 (Conference Report)<br>USA PATRIOT and Terrorism<br>Prevention Reauthorization Act of<br>2005   | H.R. 3199 (Senate Passed(S. 1389))<br>USA PATRIOT Improvement and<br>Reauthorization Act of 2005 | Comments |
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| <b>Combat Methamphetamine Epidemic Act of 2005</b>   |   |  |          |
| Existing law permits over the counter sales of nonprescription medicines containing ephedrine, pseudoephedrine, or phenylpropanolamine (EPP) in amounts up to 9 grams, 21U.S.C. 802(39). | <b>Sec.711(a),(b).</b> Limits sales to 3.6 grams of EPP products per day, per customer, 21 U.S.C. 830(d).   | No comparable provision.   |          |
|  | <b>Sec.711(b).</b> EPP products must be kept “behind the counter” and customers must present identification and sign for the purchase (unless the product contains 60 mg of pseudoephedrine or less), 21 U.S.C. 830(e). | No comparable provision.   |          |

| Present law  | <b>H.R. 3199 (Conference Report)<br/>USA PATRIOT and Terrorism<br/>Prevention Reauthorization Act of<br/>2005</b>  | <b>H.R. 3199 (Senate Passed(S. 1389))<br/>USA PATRIOT Improvement and<br/>Reauthorization Act of 2005</b> | <b>Comments</b> |
|--|--|---|-----------------|
| <b>Combat Methamphetamine Epidemic Act of 2005</b> |  |   |                 |
|  | <b>Sec.711(c).</b> Mail-order sales of EPP products are limited to 7.5 grams per month per customer, 21 U.S.C. 830(e).   | No comparable provision.  |                 |
|  | <b>Sec.711(d).</b> The Attorney General may waive the limits and requirements of subsections 711(a) through (c) for products that cannot be used for the illicit manufacture of methamphetamine, 21 U.S.C. 830(e).   | No comparable provision.  |                 |
|  | <b>Sec.711(e),(f).</b> Customer false statements are punishable under 18 U.S.C. 1001 (imprisonment for not more than 5 years); violations of the EPP restrictions are punishable under the civil and criminal penalties to which registrants are subject, 21 U.S.C. 842. | No comparable provision.  |                 |
|  | <b>Sec.711(g).</b> Preserves state regulatory authority.   | No comparable provision.  |                 |
|  | <b>Sec.712.</b> Conforming amendments so that EPP products are treated like listed chemicals, 21 U.S.C. 802.   | No comparable provision.  |                 |
|  | <b>Sec.713.</b> Authorizes the Attorney General to establish EPP production quotas, 21 U.S.C. 826.   | No comparable provision.  |                 |
|  | <b>Sec.714.</b> Includes EPP quota violations with other controlled substance quota violations, 21 U.S.C. 842.   | No comparable provision.  |                 |
|  | <b>Sec.715.</b> Authorizes the Attorney General to set EPP import quotas, 21 U.S.C. 952.   | No comparable provision.  |                 |



| Present law  | <b>H.R. 3199 (Conference Report)<br/>USA PATRIOT and Terrorism<br/>Prevention Reauthorization Act of<br/>2005</b>  | <b>H.R. 3199 (Senate Passed(S. 1389))<br/>USA PATRIOT Improvement and<br/>Reauthorization Act of 2005</b> | Comments |
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| <b>Combat Methamphetamine Epidemic Act of 2005</b> |  |   |          |
|  | <b>Sec.716.</b> Amends the general provisions governing approval of importing/exporting precursor chemicals requiring reapplication for approval in certain instances when the originally approved transaction has fallen thru and been replaced by a successor, 21 U.S.C. 971.                              | No comparable provision.  |          |
|  | <b>Sec.717.</b> Makes existing precursor import/export sanctions applicable to related EPP violations, 21 U.S.C. 960(d)(6).  | No comparable provision.  |          |
|  | <b>Sec.718.</b> Instructs the Attorney General to confer with the U.S. Trade Representative to ensure compliance with U.S. international treaty and agreement obligations.   | No comparable provision.  |          |
|  | <b>Sec.721.</b> Permits the Attorney General to require importers to disclose a “chain of custody” of EPP prior to its receipt; to require information from related foreign manufacturers and distributors; and to prohibit import from uncooperative foreign manufacturers and distributors, 21 U.S.C. 971. | No comparable provision.  |          |
|  | <b>Sec.722.</b> Adds information concerning EPP exporting and importing countries to the international narcotics control strategy report, 22 U.S.C. 2291h; makes such nations subject to annual certification under the Foreign Assistance Act, 22 U.S.C. 2291j.   | No comparable provision.  |          |

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| <b>Combat Methamphetamine Epidemic Act of 2005</b>   |   |  |          |
|  | <b>Sec.723.</b> Directs the Secretary of State to take action to prevent methamphetamine smuggling from Mexico and report on the effort.  | No comparable provision.   |          |
|  | <b>Sec.731.</b> Adds a term of imprisonment of not more than 15 years to the otherwise applicable penalties for smuggling methamphetamine into the U.S. using quick entry border procedures.                          | No comparable provision.   |          |
| Cultivating a controlled substance on federal property subjects the offender to an additional fine of not more than \$500,000, 21 U.S.C. 841(b)(5).  | <b>Sec.732.</b> Makes the prohibition applicable to manufacturing on federal land as well, 21 U.S.C. 841(b)(5).   | No comparable provision.   |          |
| The mandatory life imprisonment penalties for drug kingpins apply when the offense involves <i>300 times</i> the amount of drugs punishable as trafficking or <i>\$10 million</i> in receipts a year, 21 U.S.C. 848. | <b>Sec.733.</b> Reduces the thresholds when methamphetamine is involved to <i>200 times</i> or <i>\$5 million</i> , 21 U.S.C. 848.  | No comparable provision.   |          |
|  | <b>Sec.734.</b> Adds a term of imprisonment of not more than 20 years to the already applicable penalties for making or trafficking in methamphetamine in a place where children live or are present, 21 U.S.C. 860a. | No comparable provision.   |          |
|  | <b>Sec.735.</b> Authorizes the promulgation of forms relating to the general sentencing reporting requirements for federal judges, 28 U.S.C. 994(w).  | No comparable provision.   |          |
|  | <b>Sec.736.</b> Requires the Attorney General to report twice a year on methamphetamine enforcement efforts.  | No comparable provision.   |          |

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|--|--|---|----------|
| <b>Combat Methamphetamine Epidemic Act of 2005</b> |  |   |          |
|  | <b>Sec.741.</b> Requires the Secretary of Transportation to report on the designation of methamphetamine byproducts as hazardous materials for purpose of the Hazardous Material Transportation Act, 49 U.S.C. 5103.     | No comparable provision.  |          |
|  | <b>Sec.742.</b> Directs the Administrator of the Environmental Protection Agency to report under the Solid Waste Disposal Act on methamphetamine product waste, 42 U.S.C. 6921.  | No comparable provision.  |          |
|  | <b>Sec.743.</b> Authorizes imposition of restitution orders to cover clean up costs for illicit methamphetamine manufacturing, 21 U.S.C. 853(q).   | No comparable provision.  |          |
|  | <b>Sec.751.</b> Adds mandatory drug testing and sanction components to the drug court grant program, 42 U.S.C. 3797u(c).   | No comparable provision.  |          |
|  | <b>Sec.752.</b> Authorizes appropriations of \$70 million for drug court grant programs, 42 U.S.C. 3793(25).   | No comparable provision.  |          |
|  | <b>Sec.753.</b> Instructs the Attorney General to study and report on the feasibility of creating federal drug courts.   | No comparable provision.  |          |
|  | <b>Sec.754.</b> Authorizes appropriations of \$99 million for each of new 5 fiscal years (2006 thru 2010) for grants for public safety and methamphetamine sale, use, and manufacturing "hot spots," 42 U.S.C. 3796cc-2. | No comparable provision.  |          |

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|--|--|--|----------|
| <b>Combat Methamphetamine Epidemic Act of 2005</b> |  |  |          |
|  | <b>Sec.755.</b> Authorizes appropriations of \$20 million of each of the next 2 fiscal years (2006 and 2007) for grants drug-endangered children programs, 42 U.S.C. 3799cc-1. | No comparable provision.   |          |
|  | <b>Sec.756.</b> Authorizes the Attorney General to establish a grant program to address methamphetamine use by pregnant and parenting women offenders.                         | No comparable provision.   |          |