

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide appropriate exceptions to delayed notice orders.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

S. 356

To improve the provisions relating to the privacy of electronic communications.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. FLAKE

Viz:

1 In section 2705 of title 18, United States Code, as
2 amended by the bill, add at the end the following:

3 “(d) EXCEPTION.—

4 “(1) IN GENERAL.—A provider of electronic
5 communication service or remote computing service
6 to which an order under subsection (a) is issued, or
7 officer, employee, or agent thereof, may disclose in-
8 formation otherwise subject to the order to—

9 “(A) those persons to whom disclosure is
10 necessary in order to comply with the warrant,
11 order, subpoena, or other directive;

1 “(B) an attorney in order to obtain legal
2 advice or assistance regarding the warrant,
3 order, subpoena, or other directive;

4 “(C) upon an application by a provider,
5 any person the court determines can be notified
6 of the warrant, order, subpoena, or other direc-
7 tive without causing the adverse result de-
8 scribed in subsection (b) that serves as the
9 basis for the issuance of the order under sub-
10 section (a).

11 “(2) APPLICATION.—Any person to whom dis-
12 closure is made under paragraph (1) shall be subject
13 to the nondisclosure requirements applicable to the
14 person to whom the order is issued under subsection
15 (a) in the same manner as the person to whom the
16 warrant, order, subpoena, or other directive is
17 issued. Any recipient that discloses to a person de-
18 scribed in paragraph (1) information otherwise sub-
19 ject to a nondisclosure requirement shall notify the
20 person of the applicable nondisclosure requirement.

21 “(e) NOTIFICATION OF CHANGED CIR-
22 CUMSTANCES.—If the investigation ends or the need for
23 the order under subsection (a) ceases to exist, the govern-
24 mental entity that requested the order shall, within a rea-

- 1 sonable period of time, notify the court of the changed
- 2 circumstances so that the order can be vacated.”.