

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 9098
OFFERED BY MR. RASKIN OF MARYLAND**

Page 2, line 7, strike “EXCEPTION” and insert the following: “CRIMINAL EXCEPTION”.

Page 2, insert after line 19 the following:

1 “(3) EXCEPTION REGARDING CERTAIN FORMS
2 OF COVERED MATERIAL.—This subsection does not
3 apply in the case of covered material described in
4 subsection (d)(2)(B) to the extent that the access of
5 the governmental entity to such covered material is
6 subject to the requirements under subsection
7 (b)(3).”.

Page 5, insert after line 12 the following:

8 “(3) REVIEW OF CERTAIN FORMS OF COVERED
9 INFORMATION BY SPECIAL MASTER.—
10 “(A) IN GENERAL.—In the case of any
11 execution by a governmental entity of a search
12 warrant, grand jury subpoena, court order,
13 statutory authorization, certification, adminis-
14 trative order, or subpoena that could reasonably
15 be expected to return any covered material, the

1 court shall appoint, from among a list com-
2 prised of three persons (who have previously
3 served as special master) nominated by the gov-
4 ernmental entity and three such persons nomi-
5 nated by the Member of Congress or congres-
6 sional employee who is the subject of the search
7 warrant, grand jury subpoena, court order,
8 statutory authorization, certification, adminis-
9 trative order, or subpoena, a special master—

10 “(i) to locate and isolate all covered
11 material described in subsection (d)(2)(B)
12 from materials that are reasonably ex-
13 pected to contain any covered material;
14 and

15 “(ii) to review any such covered mate-
16 rial described in subsection (d)(2)(B) to
17 identify information that is privileged
18 under the Constitution.

19 “(B) RELEASE AND RETURN.—The special
20 master shall release only the covered material
21 described in subsection (d)(2)(B) that is not
22 identified pursuant to subparagraph (A)(ii) to
23 the governmental entity.

1 “(C) COORDINATION.—The special master
2 may consult, for purposes of conducting a re-
3 view under subparagraph (A), with—

4 “(i) any party to a communication in-
5 cluded in the materials that are reasonably
6 expected to contain covered material; or

7 “(ii) the governmental entity that has
8 executed the search warrant, grand jury
9 subpoena, court order, statutory authoriza-
10 tion, certification, administrative order, or
11 subpoena.

12 “(D) REVIEW OF DETERMINATIONS.—
13 Prior to releasing any covered material under
14 subparagraph (B), the special master shall ac-
15 cord each Member of Congress or congressional
16 employee who is a party to a communication in-
17 cluded in the materials that are reasonably ex-
18 pected to contain covered material an oppor-
19 tunity to review the covered material proposed
20 to be released for such period of time as the
21 court determines to be reasonable and appro-
22 priate. On the motion of such Member or em-
23 ployee, the court shall review de novo a deter-
24 mination of the special master under subpara-
25 graph (A)(ii).

1 “(E) NON-DISCLOSURE AGREEMENT.—The
2 special master appointed by the court shall
3 agree to be bound by a non-disclosure agree-
4 ment approved by the court.

5 “(F) RULE OF CONSTRUCTION.—Nothing
6 in this paragraph may be construed to provide
7 that the requirement of notice under paragraph
8 (1) or the requirement of delayed review under
9 paragraph (2) do not apply by reason of the re-
10 view under this paragraph.”.

