

103^D CONGRESS
2^D SESSION

H. R. 4137

To amend the National Security Act of 1947 to improve counterintelligence measures through enhanced security for classified information, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1994

Mr. HYDE (for himself and Mr. WILSON) introduced the following bill; which was referred jointly to the Committees on Permanent Select Committee on Intelligence, the Judiciary, Banking, Finance and Urban Affairs, and Post Office and Civil Service

A BILL

To amend the National Security Act of 1947 to improve counterintelligence measures through enhanced security for classified information, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Counterintelligence
5 Improvements Act of 1994”.

1 **SEC. 2. AMENDMENT TO THE NATIONAL SECURITY ACT OF**
2 **1947.**

3 (a) The National Security Act of 1947 (50 U.S.C.
4 401 et seq.) is amended by inserting at the end thereof
5 the following new title:

6 “TITLE VIII—ACCESS TO TOP SECRET
7 INFORMATION

8 “ELIGIBILITY FOR ACCESS TO TOP SECRET INFORMATION

9 “SEC. 801. (a) The President and Vice President,
10 Members of the Congress, Justices of the Supreme Court
11 and judges of other courts of the United States established
12 pursuant to Article III of the Constitution, shall, by virtue
13 of their elected or appointed positions, be entitled to access
14 to Top Secret information needed for the performance of
15 their governmental functions without regard to the other
16 provisions of this title.

17 “(b) Among employees of the United States Govern-
18 ment, access to Top Secret information shall be limited
19 to employees—

20 “(1) who have been granted access to such in-
21 formation pursuant to this title;

22 “(2) who are citizens of the United States who
23 require routine access to such information for the
24 performance of official governmental functions; and

25 “(3) who have been determined to be trust-
26 worthy based upon a background investigation and

1 appropriate reinvestigations and have otherwise sat-
2 isfied the requirements of section 802, below.

3 “(c) Access to Top Secret information by persons
4 other than those identified in subsections (a) and (b) shall
5 be permitted only in accordance with the regulations is-
6 sued by the President pursuant to section 802 below.

7 “IMPLEMENTING REGULATIONS

8 “Sec. 802. The President shall, within 180 days of
9 enactment of this title, issue regulations to implement this
10 title which shall be binding upon all departments, agen-
11 cies, and offices of the Executive branch. These regula-
12 tions shall, at a minimum, provide that:

13 “(1) No employee of the United States Govern-
14 ment shall be given access to Top Secret information
15 owned, originated or possessed by the United States,
16 after the effective date of this title, by any depart-
17 ment, agency, or entity of the United States Govern-
18 ment unless such person has been subject to an ap-
19 propriate background investigation and has—

20 “(A) provided consent to the investigative
21 agency responsible for conducting the security
22 investigation of such person, during the initial
23 background investigation and for such times as
24 access to such information is maintained, and
25 for 5 years thereafter, permitting access to—

1 “(i) financial records concerning the
2 subject pursuant to section 1104 of the
3 Right to Financial Privacy Act of 1978;

4 “(ii) consumer reports concerning the
5 subject pursuant to section 1681b of the
6 Consumer Credit Protection Act; and

7 “(iii) records maintained by commer-
8 cial entities within the United States per-
9 taining to any travel by the subject outside
10 the United States.

11 For the purposes of this subparagraph—

12 “(I) no information may be requested
13 by an authorized investigative agency pur-
14 suant to this section for any purpose other
15 than making a security determination;

16 “(II) where the person concerned no
17 longer has access to Top Secret informa-
18 tion, no information may be requested by
19 an authorized investigative agency pursu-
20 ant to this section unless such agency has
21 reasonable grounds to believe, based upon
22 specific and articulable facts available to it,
23 that such person may pose a threat to the
24 continued security of the information to

1 which he or she had previously had access;
2 and

3 “(III) any information obtained by an
4 authorized investigative agency pursuant to
5 this section shall not be disseminated to
6 any other department, agency, or entity for
7 any purpose other than for making a secu-
8 rity determination, or for foreign counter-
9 intelligence or law enforcement purposes.

10 “(B) Agreed, during the period of his or
11 her access, to report to the department, agency,
12 or entity granting such access in accordance
13 with applicable regulations, any travel to for-
14 eign countries which has not been authorized as
15 part of the subject’s official duties.

16 “(C) Agreed to report to the Federal Bu-
17 reau of Investigation, or to appropriate inves-
18 tigative authorities of the department, agency,
19 or entity concerned, any unauthorized contacts
20 with persons known to be foreign nationals or
21 persons representing foreign nationals, where
22 an effort to acquire classified information is
23 made by the foreign national, or where such
24 contacts appear intended for this purpose. For
25 purposes of this subsection, the term ‘unauthor-

1 ized contacts' does not include contacts made
2 within the context of an authorized diplomatic
3 relationship. Failure by the employee to comply
4 with any of the requirements of this subsection
5 shall constitute grounds for denial or termi-
6 nation of access to the Top Secret information
7 concerned.

8 “(2) All employees granted access to Top Secret
9 information pursuant to this subsection shall also be
10 subject to—

11 “(A) additional background investigations
12 by appropriate governmental authorities during
13 the period of access at no less frequent interval
14 than every 5 years, except that any failure to
15 satisfy this requirement that is not solely attrib-
16 utable to the subject of the investigation shall
17 not result in a loss or denial of access; and

18 “(B) investigation by appropriate govern-
19 mental authority at any time during the period
20 of access to ascertain whether such persons
21 continue to meet the requirements for access.

22 “(3) Access to Top Secret information by cat-
23 egories of persons who do not meet the requirements
24 of paragraphs (1) and (2) of this section may be
25 permitted only where the President, or officials des-

1 ignated by the President for this purpose, determine
2 that such access is essential to protect or further the
3 national security interests of the United States.

4 “(4) A single office within the Executive branch
5 shall be designated to monitor the implementation
6 and operation of this title within the Executive
7 branch. This office shall submit an annual report to
8 the President and appropriate committees of the
9 Congress, describing the operation of this title and
10 recommending needed improvements. A copy of the
11 regulations implementing this title shall be provided
12 to the Select Committee on Intelligence of the Sen-
13 ate and the Permanent Select Committee on Intel-
14 ligence of the House of Representatives thirty days
15 prior to their effective date.

16 “WAIVERS FOR INDIVIDUAL CASES

17 “SEC. 803. In extraordinary circumstances, when es-
18 sential to protect or further the national security interests
19 of the United States, the President (or officials designated
20 by the President for this purpose) may waive the provi-
21 sions of this title, or the provisions of the regulations is-
22 sued pursuant to section 802, above, in individual cases
23 involving persons who are citizens of the United States
24 or are persons admitted into the United States for perma-
25 nent residence: *Provided*, That all such waivers shall be
26 made a matter of record and reported to the office des-

1 igned pursuant to section 802(4), above, and shall be
2 available for review by the Select Committee on Intel-
3 ligence of the Senate and the Permanent Select Committee
4 on Intelligence of the House of Representatives.

5 “DEFINITIONS

6 “SEC. 804. For purposes of this title—

7 “(a) the term ‘national security’ refers to the
8 national defense and foreign relations of the United
9 States;

10 “(b) the phrases ‘information classified in the
11 interest of national security’ or ‘classified informa-
12 tion’ means any information originated by or on be-
13 half of the United States Government, the unauthor-
14 ized disclosure of which would cause damage to the
15 national security, which has been marked and is con-
16 trolled pursuant to the Executive Order 12356 of
17 April 2, 1982, or successor orders, or the Atomic
18 Energy Act of 1954;

19 “(c) the term ‘Top Secret information’ means
20 information classified in the interests of national se-
21 curity, the unauthorized disclosure of which would
22 cause exceptionally grave damage to the national se-
23 curity;

24 “(d) the term ‘employee’ includes any person
25 who receives a salary or compensation of any kind
26 from the United States Government, is a contractor

1 of the United States Government, is an unpaid con-
2 sultant of the United States Government, or other-
3 wise acts for or on behalf of the United States Gov-
4 ernment, but does not include the President or Vice
5 President of the United States, Members of the Con-
6 gress of the United States, Justices of the Supreme
7 Court or judges of other federal courts established
8 pursuant to Article III of the Constitution; and

9 “(e) the term ‘authorized investigative agency’
10 means an agency authorized by law or regulation to
11 conduct investigations of persons who are proposed
12 for access to Top Secret information to ascertain
13 whether such persons satisfy the criteria for obtain-
14 ing and retaining access to such information.

15 “EFFECTIVE DATE

16 “SEC. 805. This title shall take effect 180 days after
17 the date of its enactment.”.

18 (b) The table of contents of the National Security Act
19 of 1947 is amended by adding at the end the following:

“TITLE VIII—ACCESS TO TOP SECRET INFORMATION

“Sec. 801. Eligibility for access to top secret information.

“Sec. 802. Implementing regulations.

“Sec. 803. Waivers for individual cases.

“Sec. 804. Definitions.

“Sec. 805. Effective date.”.

1 **SEC. 3. PROTECTION OF CRYPTOGRAPHIC INFORMATION.**

2 (a) The National Security Act of 1947 (50 U.S.C.
3 401 et seq.), as amended by section 2, is further amended
4 by inserting at the end the following new title:

5 “TITLE IX—PROTECTION OF CRYPTOGRAPHIC
6 INFORMATION

7 “REQUIREMENTS FOR ACCESS TO CRYPTOGRAPHIC
8 INFORMATION

9 “SEC. 901. (a)(1) Any employee of a department or
10 agency within the Executive branch who is granted access
11 to classified cryptographic information or routine, recur-
12 ring access to any space in which classified cryptographic
13 key is produced or processed, or is assigned responsibilities
14 as a custodian of classified cryptographic key, shall, as a
15 condition of receiving such access or being assigned such
16 responsibilities and at a minimum:

17 “(A) Meet the requirements applicable to per-
18 sons having access to Top Secret information, as de-
19 fined in subsection 804(c) of this Act (as added by
20 section 2 of the Counterintelligence Improvements
21 Act of 1994).

22 “(B) be subject to periodic polygraph examina-
23 tions conducted by appropriate governmental au-
24 thorities, limited in scope to questions of a counter-
25 intelligence nature, during the period of access.

1 “(2) Failure to submit to an examination required
2 under paragraph (1) shall be grounds for removal from
3 access to cryptographic information or spaces.

4 “(3) No person shall be removed from access to cryp-
5 tographic information or spaces based solely upon the in-
6 terpretation of the results produced by a polygraph instru-
7 ment, measuring physiological resources, unless, after fur-
8 ther investigation, the head of the department or agency
9 concerned determines the risk to the national security in
10 permitting such access to be so potentially grave that ac-
11 cess must nonetheless be denied.

12 “(b) For purposes of this section—

13 “(1) the term ‘classified cryptographic informa-
14 tion’ means any information classified by the United
15 States Government pursuant to law or Executive
16 order concerning the details of (A) the nature, prep-
17 aration, or use of any code, cipher, or cryptographic
18 system of the United States; or (B) the design, con-
19 struction, use, maintenance, or repair of any cryp-
20 tographic equipment, except that such term does not
21 include information concerning the use of cryp-
22 tographic systems or equipment required for per-
23 sonal or office use;

24 “(2) the phrase ‘custodian of classified cryp-
25 tographic key’ means positions that require access to

1 classified cryptographic key beyond that required to
2 use or operate cryptographic equipment for personal
3 or office use, future editions of classified cryp-
4 tographic key, or classified cryptographic key used
5 for multiple devices;

6 “(3) the term ‘classified cryptographic key’
7 means any information (usually a sequence of ran-
8 dom binary digits), in any form, classified by the
9 United States Government pursuant to law or Exec-
10 utive order that is used to set up and periodically
11 change the operations performed by any cryp-
12 tographic equipment;

13 “(4) the term ‘cryptographic equipment’ means
14 any device, apparatus or appliance used, or pre-
15 pared, or planned for use by the United States for
16 the purpose of authenticating communications or
17 disguising or concealing the contents, significance,
18 or meanings of communications;

19 “(5) the term ‘employee’ includes any person
20 who receives a salary or compensation of any kind
21 from a department or agency of the Executive
22 branch, or is a contractor or unpaid consultant of
23 such department or agency;

24 “(6) the term ‘head of a department or agency’
25 refers to the highest official who exercises super-

1 visory control over the employee concerned, and does
2 not include any intermediate supervisory officials
3 who may otherwise qualify as heads of agencies
4 within departments; and

5 “(7) the phrase ‘questions of a counterintel-
6 ligence nature’ means questions specified to the sub-
7 ject in advance of a polygraph examination solely to
8 ascertain whether the subject is engaged in, or plan-
9 ning, espionage against the United States on behalf
10 of a foreign government or knows persons who are
11 so engaged.

12 “IMPLEMENTING REGULATIONS

13 “SEC. 902. The President shall, within 180 days of
14 the date of enactment of this title, promulgate regulations
15 to implement the provisions of this title. The President
16 shall provide copies of such regulations to the Select Com-
17 mittee on Intelligence of the Senate and the Permanent
18 Select Committee on Intelligence of the House of Rep-
19 resentatives.”.

20 (b) The table of contents of the National Security Act
21 of 1947 is amended by adding at the end the following:

“TITLE IX—PROTECTION OF CRYPTOGRAPHIC INFORMATION

“Sec. 901. Requirements for access to cryptographic information.

“Sec. 902. Implementing regulations.”.

1 **SEC. 4. AMENDMENT TO RIGHT TO FINANCIAL PRIVACY**
2 **ACT.**

3 Section 1104 of the Right to Financial Privacy Act
4 of 1978 (12 U.S.C. 3404) is amended by adding at the
5 end thereof the following new subsection:

6 “(d)(1) Notwithstanding the provisions of subsection
7 (a), a customer who is the subject of a personnel security
8 investigation conducted by an authorized investigative
9 agency of the United States Government as a condition
10 of being granted or maintaining access to Top Secret in-
11 formation, as defined by section 804(c) of the National
12 Security Act of 1947 (as added by section 2 of the Coun-
13 terintelligence Improvements Act of 1994), may authorize
14 nonrevokable disclosure of all financial records maintained
15 by financial institutions for the period of the customer’s
16 access to such information and for up to 5 years after
17 access to such information has been terminated, by the
18 investigative agency responsible for the conduct of such
19 investigation, for an authorized security purpose.

20 “(2) Such authority shall be contained in a signed
21 and dated statement of the customer which identifies the
22 financial records which are authorized to be disclosed.
23 Such statement may also authorize the disclosure of finan-
24 cial records of accounts opened during the period covered
25 by the consent agreement which are not identifiable at the
26 time such consent is provided. A copy of such statement

1 shall be provided by the investigative agency concerned to
2 the financial institution from which disclosure is sought,
3 together with the certification required pursuant to section
4 1103(b) (12 U.S.C. 3403(b)).

5 “(3) The rights of the customer established by sub-
6 section (c), above, shall pertain to any disclosures made
7 pursuant to this subsection.

8 “(4) On an annual basis, the office designated by
9 President pursuant to section 802(4) of the National Se-
10 curity Act of 1947 (as added by section 2 of the Counter-
11 intelligence Improvements Act of 1994), shall fully inform
12 the Permanent Select Committee on Intelligence of the
13 House of Representatives and the Select Committee on In-
14 telligence of the Senate concerning the number of requests
15 for financial records made pursuant to this section.”.

16 **SEC. 5. NEW CRIMINAL OFFENSE FOR THE POSSESSION OF**
17 **ESPIONAGE DEVICES.**

18 (a) IN GENERAL.—Chapter 37 of title 18, United
19 States Code, is amended by inserting at the end thereof
20 the following new section:

21 “POSSESSION OF ESPIONAGE DEVICES

22 “SEC. 799a. Whoever knowingly maintains possession
23 of any electronic, mechanical, or other device or equipment
24 the design and capability of which renders it primarily
25 useful for the purpose of surreptitiously collecting or com-
26 municating information, with the intent of utilizing such

1 device or equipment to undertake actions which would vio-
 2 late section 793, 794, 794a (as added by section 6 of the
 3 Counterintelligence Improvements Act of 1994), or 798 of
 4 this title, or section 783(b) of title 50, United States Code,
 5 shall be fined in accordance with this title or imprisoned
 6 not more than 5 years, or both.”.

7 (b) AMENDMENTS TO TABLE OF SECTIONS.—The
 8 table of sections for chapter 37 of title 18, United States
 9 Code, is amended by adding at the end thereof the follow-
 10 ing new item:

“799a. Possession of espionage devices.”.

11 **SEC. 6. NEW OFFENSE FOR SALE OR TRANSFER TO FOR-**
 12 **EIGN GOVERNMENTS DOCUMENTS AND**
 13 **OTHER MATERIALS DESIGNATED AS TOP SE-**
 14 **CRET.**

15 (a) IN GENERAL.—Chapter 37 of title 18, United
 16 States Code, is amended by inserting after section 794 the
 17 following new section:

18 “SALE OR TRANSFER OF DOCUMENTS OR MATERIALS
 19 MARKED AS ‘TOP SECRET’

20 “SEC. 794a. (a)(1) No person shall knowingly sell or
 21 otherwise transfer for any valuable consideration to any
 22 person whom he knows or has reason to believe to be an
 23 agent or representative of a foreign government—

24 “(A) any document, writing, code book, sketch,
 25 photograph, map, model, instrument, equipment,

1 electronic storage media, or other material, or por-
2 tion thereof, knowing that it is marked or otherwise
3 designated in any manner, pursuant to applicable
4 law and Executive order, as ‘Top Secret’, or

5 “(B) any such document, writing, code book,
6 sketch, photograph, map, model, instrument, equip-
7 ment, electronic storage media, or other material, or
8 portion thereof, which has had such marking or des-
9 ignation removed without authority and the person
10 making the sale or transfer is aware of such re-
11 moval.

12 “(2) Paragraph (1) shall not be deemed to be violated
13 by a person who makes such transfer pursuant to applica-
14 ble law or executive branch authority.

15 “(b) In any prosecution under this section, whether
16 or not the information or material in question has been
17 properly marked or designated as ‘TOP SECRET’ pursu-
18 ant to applicable law or Executive order shall not be an
19 element of the offense: *Provided, however,* That it shall
20 be a defense to any prosecution under this section that
21 the information or document in question has been offi-
22 cially released to the public by an authorized representa-
23 tive of the United States prior to the sale or transfer in
24 question.

1 “(c) Violation of this section shall be punishable by
2 imprisonment for a maximum of 15 years.”.

3 (b) AMENDMENTS TO TABLE OF SECTIONS.—The
4 table of sections for chapter 37 of title 18, United States
5 Code, is amended by inserting after the item relating to
6 section 794 the following new item:

“794a. Sale or transfer of documents or materials marked as ‘Top Secret’.”.

7 **SEC. 7. LESSER CRIMINAL OFFENSE FOR THE REMOVAL OF**
8 **TOP SECRET DOCUMENTS BY GOVERNMENT**
9 **EMPLOYEES AND CONTRACTORS.**

10 (a) IN GENERAL.—Chapter 93 of title 18, United
11 States Code, is amended by inserting at the end thereof
12 the following new section:

13 “REMOVAL AND RETENTION OF ‘TOP SECRET’
14 DOCUMENTS OR MATERIAL

15 “SEC. 1924. Whoever, being an officer, employee,
16 contractor or consultant, of the United States, and having,
17 by virtue of his office, employment, position, or contract,
18 becomes possessed of documents or materials classified at
19 the level of ‘Top Secret’ pursuant to applicable law or Ex-
20 ecutive order, knowingly removes such documents or mate-
21 rials without authority and retains such documents or ma-
22 terials at an unauthorized location shall be fined not more
23 than \$1,000 (notwithstanding section 3571 of this title),
24 or imprisoned for not more than one year, or both.”.

1 (b) AMENDMENT TO TABLE OF SECTIONS.—The
2 table of sections for chapter 93 of title 18, United States
3 Code, is amended by adding at the end thereof the follow-
4 ing new item:

“1924. Removal of ‘Top Secret’ documents or material.”.

5 **SEC. 8. JURISDICTION OF UNITED STATES COURTS TO TRY**
6 **CASES INVOLVING ESPIONAGE OUTSIDE THE**
7 **UNITED STATES.**

8 (a) Chapter 211 of title 18 of the United States Code
9 is amended by adding a new section 3239 as follows:

10 **“§ 3239. Jurisdiction for espionage and related of-**
11 **fenses**

12 “The trial for any offense involving a violation of—

13 “(a) section 793, 794, 794a (as added by sec-
14 tion 6 of the Counterintelligence Improvements Act
15 of 1994), 798, 798a (as added by section 5 of the
16 Counterintelligence Improvements Act of 1994), or
17 subsection 1030(a)(1) of this title;

18 “(b) section 601 of the National Security Act of
19 1947 as added by the Intelligence Identities Protec-
20 tion Act of 1982 (50 U.S.C. 421); or

21 “(c) subsections 4(b) or 4(c) of the Subversive
22 Activities Control Act of 1950 (U.S.C. 783(b) or
23 783(c));

24 begun or committed upon the high seas or elsewhere out
25 of the jurisdiction of any particular state or district, may

1 be prosecuted in the District of Columbia, or in the East-
2 ern District of Virginia, or in any other district authorized
3 by law.”.

4 (b) The chapter analysis for chapter 211 of title 18
5 of the United States Code is amended by striking out

“[3239. Repealed.]”

6 and inserting in lieu thereof:

“3239. Jurisdiction for espionage and related offenses.”.

7 **SEC. 9. EXPANSION OF EXISTING STATUTE REGARDING**
8 **FORFEITURE OF COLLATERAL PROFITS OF**
9 **CRIME TO ADDITIONAL ESPIONAGE OF-**
10 **FENSES.**

11 Section 3681 of title 18, United States Code, is
12 amended—

13 (1) in subsection (a), by striking out “section
14 794 of this title” and inserting in lieu thereof “sec-
15 tions 793, 794, 794a (as added by section 6 of the
16 Counterintelligence Improvements Act of 1994),
17 798, and 799a (as added by section 5 of the Coun-
18 terintelligence Improvements Act of 1994) of this
19 title and section 783 of title 50, United States
20 Code”; and

21 (2) by adding at the end thereof the following
22 new subsection:

23 “(e) For purposes of this section, convictions pursu-
24 ant to military courts-martial for offenses comparable to

1 violations of sections 793, 794, 794a (as added by section
2 6 of the Counterintelligence Improvements Act of 1994),
3 798, and 799a (as added by section 5 of the Counterintel-
4 ligence Improvements Act of 1994) of this title, or a viola-
5 tion of section 783 of title 50, or convictions by foreign
6 courts for offenses which, if perpetrated within the United
7 States, would constitute offenses under sections 793, 794,
8 794a (as added by section 6 of the Counterintelligence Im-
9 provements Act of 1994), 798, and 799a (as added by sec-
10 tion 5 of the Counterintelligence Improvements Act of
11 1994) of this title, or a violation of section 783 of title
12 50 shall be considered as convictions for which actions
13 may be ordered pursuant to this section.”.

14 **SEC. 10. DENIAL OF ANNUITIES OR RETIRED PAY TO PER-**
15 **SONS CONVICTED OF ESPIONAGE IN FOR-**
16 **EIGN COURTS INVOLVING UNITED STATES IN-**
17 **FORMATION.**

18 Section 8312 of title 5, United States Code, is
19 amended by adding at the end thereof the following new
20 subsection:

21 “(d) For purposes of subsections (b)(1) and (c)(1),
22 an offense within the meaning of such subsections is es-
23 tablished if the Attorney General certifies to the agency
24 employing or formerly employing the person concerned—

1 “(2) that an individual subject to this chapter
2 has been convicted by an impartial court of appro-
3 priate jurisdiction within a foreign country in cir-
4 cumstances in which the conduct violates the provi-
5 sions of law enumerated in subsections (b)(1) and
6 (c)(1), or would violate such provisions, had such
7 conduct taken place within the United States, and
8 that such conviction is not being appealed or that
9 final action has been taken on such appeal;

10 “(3) that such conviction was obtained in ac-
11 cordance with procedures that provided the defend-
12 ant due process rights comparable to such rights
13 provided by the United States Constitution, and
14 such conviction was based upon evidence which
15 would have been admissible in the courts of the
16 United States; and

17 “(4) that such conviction occurred after the
18 date of enactment of this subsection.

19 Any certification made pursuant to this subsection shall
20 be subject to review by the United States Court of Claims
21 based upon the application of the individual concerned, or
22 his or her attorney, alleging that any of the conditions set
23 forth in paragraphs (1), (2), (3), herein, as certified by
24 the Attorney General, have not been satisfied in his or
25 her particular circumstances. Should the court determine

1 that any of these conditions has not been satisfied in such
2 case, the court shall order any annuity or retirement bene-
3 fit to which the person concerned is entitled to be restored
4 and shall order that any payments which may have been
5 previously denied or withheld to be paid by the department
6 or agency concerned.”.

7 **SEC. 11. AUTHORIZING THE FBI TO OBTAIN CONSUMER RE-**
8 **PORTS ON PERSONS BELIEVED TO BE**
9 **AGENTS OF FOREIGN POWERS.**

10 Section 608 of the Consumer Credit Protection Act
11 (15 U.S.C. 1681f) is amended—

12 (1) by inserting “(a)” before “Notwithstand-
13 ing”; and

14 (2) by inserting at the end thereof the following
15 new subsections:

16 “(b) Notwithstanding the provisions of section 604,
17 a consumer reporting agency shall, upon request, furnish
18 a consumer report to the Federal Bureau of Investigation,
19 if the Director of the Federal Bureau of Investigation, or
20 the Director’s designee, certifies in writing to the
21 consumer reporting agency that such records are sought
22 in connection with an authorized foreign counterintel-
23 ligence investigation and that there are specific and
24 articulable facts giving reason to believe that the person
25 to whom the requested consumer report relates is an agent

1 of a foreign power, as defined in section 101 of the For-
2 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
3 1801).

4 “(c) Notwithstanding the provisions of section 604,
5 a consumer reporting agency shall furnish identifying in-
6 formation respecting any consumer, limited to name, ad-
7 dress, former addresses, places of employment, or former
8 places of employment, to a representative of the Federal
9 Bureau of Investigation when presented with a written re-
10 quest signed by the Director of the Federal Bureau of In-
11 vestigation, or the Director’s designee, stating that the in-
12 formation is necessary to the conduct of an authorized for-
13 eign counterintelligence investigation.

14 “(d) No consumer reporting agency, or officer, em-
15 ployee, or agent of such institution shall disclose to any
16 person that the Federal Bureau of Investigation has
17 sought or obtained a consumer report or identifying infor-
18 mation respecting any consumer under this section.

19 “(e) On an annual basis the Director of the Federal
20 Bureau of Investigation shall fully inform the Permanent
21 Select Committee on Intelligence of the House of Rep-
22 resentatives and the Select Committee on Intelligence of
23 the Senate concerning all requests made under subsections
24 (b) and (c).”.

1 **SEC. 12. TO PROVIDE FOR REWARDS FOR INFORMATION**
2 **CONCERNING ESPIONAGE.**

3 (a) IN GENERAL.—Chapter 204 of title 18, United
4 States Code, is amended—

5 (1) by inserting at the end of the chapter head-
6 ing “**AND ESPIONAGE**”;

7 (2) in section 3071, by inserting “(a)” imme-
8 diately before “With respect to”;

9 (3) in section 3071, adding at the end thereof
10 the following new subsection:

11 “(b) With respect to acts of espionage involving or
12 directed at United States information classified in the in-
13 terest of national security, the Attorney General may re-
14 ward any individual who furnishes information—

15 “(1) leading to the arrest or conviction, in any
16 country, of any individual or individuals for commis-
17 sion of an act of espionage against the United
18 States;

19 “(2) leading to the arrest or conviction, in any
20 country, of any individual or individuals for conspir-
21 ing or attempting to commit an act of espionage
22 against the United States; or

23 “(3) leading to the prevention or frustration of
24 an act of espionage against the United States.”.

1 (b) AMOUNT OF REWARDS.—Section 3072 of title 18,
2 United States Code, is amended by striking out
3 “\$500,000” and inserting in lieu thereof “\$1,000,000”.

4 (c) DEFINITIONS.—Section 3077 of title 18, United
5 States Code, is amended by inserting at the end thereof
6 the following new paragraphs:

7 “(8) ‘act of espionage’ means an activity that is
8 a violation of sections 794, 794a (as added by sec-
9 tion 6 of the Counterintelligence Improvements Act
10 of 1994), 798, or 799a (as added by section 5 of the
11 Counterintelligence Improvements Act of 1994) of
12 this title or section 783 of title 50, United States
13 Code.

14 “(9) ‘United States information classified in the
15 interests of national security’ means information
16 originated, owned, or possessed by the United States
17 Government concerning the national defense and for-
18 eign relations of the United States that has been de-
19 termined pursuant to law or Executive order to re-
20 quire protection against unauthorized disclosure and
21 that has been so designated.”.

1 **SEC. 13. TO PROVIDE A COURT ORDER PROCESS FOR PHYS-**
2 **ICAL SEARCHES UNDERTAKEN FOR FOREIGN**
3 **INTELLIGENCE PURPOSES.**

4 (a) The Foreign Intelligence Surveillance Act of 1978
5 is amended by inserting at the end thereof the following
6 new title:

7 “TITLE IV—PHYSICAL SEARCHES WITHIN THE
8 UNITED STATES FOR FOREIGN INTEL-
9 LIGENCE PURPOSES

10 “AUTHORIZATION OF PHYSICAL SEARCHES FOR FOREIGN
11 INTELLIGENCE PURPOSES

12 “SEC. 401. (a) Applications for a court order under
13 this title are authorized if the President has, in writing,
14 empowered the Attorney General to approve applications
15 to the Foreign Intelligence Surveillance Court, and a judge
16 of that court to whom application is made may, notwith-
17 standing any other law, grant an order, in conformity with
18 section 403, approving a physical search in the United
19 States, for the purpose of collecting foreign intelligence in-
20 formation of—

21 “(1) the property, information or material of a
22 foreign power as defined in section 101(a)(1), (2),
23 and (3) of this Act, or

24 “(2) the premises, property, information or ma-
25 terial of an agent of a foreign power or a foreign

1 power as defined in section 101(a)(4), (5), and (6)
2 of this Act.

3 “(b) The Foreign Intelligence Surveillance Court
4 shall have jurisdiction to hear applications for and grant
5 orders approving a physical search for the purpose of ob-
6 taining foreign intelligence information anywhere within
7 the United States under the procedures set forth in this
8 title, except that no judge shall hear the same application
9 which has been denied previously by another judge. If any
10 judge denies an application for an order authorizing a
11 physical search under this title, such judge shall provide
12 immediately for the record a written statement of each
13 reason for his decision and, on motion of the United
14 States, the record shall be transmitted, under seal, to the
15 Court of Review.

16 “(c) The Court of Review shall have jurisdiction to
17 review the denial of any application made under this title.
18 If such court determines that the application was properly
19 denied, the Court shall immediately provide for the record
20 a written statement of each reason for its decision and,
21 on petition of the United States for a writ of certiorari,
22 the record shall be transmitted under seal to the Supreme
23 Court, which shall have jurisdiction to review such deci-
24 sion.

1 “(d) Judicial proceedings under this title shall be con-
2 cluded as expeditiously as possible. The record of proceed-
3 ings under this title, including applications made and or-
4 ders granted, shall be maintained under security measures
5 established by the Chief Justice of the United States in
6 consultation with the Attorney General and the Director
7 of Central Intelligence.

8 “APPLICATION FOR AN ORDER

9 “SEC. 402. (a) Each application for an order approv-
10 ing a physical search under this title shall be made by
11 a Federal officer in writing upon oath or affirmation to
12 a judge of the Foreign Intelligence Surveillance Court.
13 Each application shall require the approval of the Attor-
14 ney General based upon the Attorney General’s finding
15 that it satisfied the criteria and requirements for such ap-
16 plication as set forth in this title. It shall include—

17 “(1) the identity, if known, or a description of
18 the target of the search;

19 “(2) the authority conferred on the Attorney
20 General by the President of the United States and
21 the approval of the Attorney General to make the
22 application;

23 “(3) the identity of the Federal officer making
24 the application and a detailed description of the
25 premises or property to be searched and of the infor-

1 mation, material, or property to be seized, repro-
2 duced, or altered;

3 “(4) a statement of the facts and circumstances
4 relied upon by the applicant to justify the appli-
5 cant’s belief that—

6 “(A) the target of the physical search is a
7 foreign power or an agent of a foreign power;

8 “(B) the premises or property to be
9 searched contains foreign intelligence informa-
10 tion;

11 “(C) the premises or property to be
12 searched is owned, used, possessed by, or is in
13 transit to or from a foreign power or an agent
14 of a foreign power;

15 “(5) a statement of the proposed minimization
16 procedures;

17 “(6) a statement of the manner in which the
18 physical search is to be conducted;

19 “(7) a statement of the facts concerning all pre-
20 vious applications that have been made to any judge
21 under this title involving any of the persons, prem-
22 ises, or property specified in the application, and the
23 action taken on each previous applications;

24 “(8) a statement of the facts concerning any
25 search described in section 406(b), below, which in-

1 involves any of the persons, premises, or property
2 specified in the application; and

3 “(9) a statement that the purpose of the phys-
4 ical search is to obtain foreign intelligence informa-
5 tion.

6 “(b) The judge may require the applicant to furnish
7 such other information as may be necessary to make the
8 determinations required by section 403.

9 “ISSUANCE OF AN ORDER

10 “SEC. 403. (a) Upon an application made pursuant
11 to section 402, the judge shall enter an ex parte order
12 as requested or as modified approving the physical search
13 if the judge finds that—

14 “(1) the President has authorized the Attorney
15 General to approve applications for physical searches
16 for foreign intelligence purposes;

17 “(2) the application has been made by a Fed-
18 eral officer and approved by the Attorney General;

19 “(3) on the basis of the facts submitted by the
20 applicant there is probable cause to believe that—

21 “(A) the target of the physical search is a
22 foreign power or an agent of a foreign power:
23 *Provided*, That no United States person may be
24 considered an agent of a foreign power solely
25 upon the basis of activities protected by the

1 first amendment to the Constitution of the
2 United States;

3 “(B) the premises or property to be
4 searched are owned, used, possessed by, or is in
5 transit to or from an agent of a foreign power
6 or a foreign power; and

7 “(C) physical search of such premises or
8 property can reasonably be expected to yield
9 foreign intelligence information which cannot
10 reasonably be obtained by normal investigative
11 means; and

12 “(4) the proposed minimization procedures
13 meet the definition of minimization contained in this
14 title; and

15 “(5) the application which has been filed con-
16 tains all statements required by section 402.

17 “(b) An order approving a physical search under this
18 section shall—

19 “(1) specify—

20 “(A) the Federal officer or officers author-
21 ized to conduct the physical search and the
22 identity, if known, or a description of the target
23 of the physical search;

1 “(B) the premises or property to be
2 searched and the information, material, or
3 property to be seized, altered, or reproduced;

4 “(C) the type of foreign intelligence infor-
5 mation sought to be acquired; and

6 “(D) a statement of the manner in which
7 the physical search is to be conducted and,
8 whenever more than one physical search is au-
9 thorized under the order, the authorized scope
10 of each search and what minimization proce-
11 dures shall apply to the information acquired by
12 each search;

13 “(2) direct—

14 “(A) that the minimization procedures be
15 followed;

16 “(B) that, upon the request of the appli-
17 cant, a specified landlord, custodian, or other
18 specified person furnish the applicant forthwith
19 all information, facilities, or assistance nec-
20 essary to accomplish the physical search in such
21 a manner as will protect its secrecy and
22 produce a minimum of interference with the ac-
23 tivities of the landlord, custodian, or other per-
24 son; and that such landlord, custodian or other
25 person maintain under security procedures ap-

1 proved by the Attorney General and the Direc-
2 tor of Central Intelligence any records concern-
3 ing the search or the aid furnished that such
4 person wishes to retain;

5 “(C) that the physical search be under-
6 taken within 30 days of the date of the order,
7 or, if the physical search is of the property, in-
8 formation or material of a foreign power as de-
9 fined in section 101(a)(1), (2), or (3) of this
10 Act, that such search be undertaken within one
11 year of the order; and

12 “(D) that the Federal officer conducting
13 the physical search promptly report to the court
14 the circumstances and results of the physical
15 search.

16 “(c) At any time after a physical search has been car-
17 ried out, the judge to whom the return has been made
18 may assess compliance with the minimization procedures
19 by reviewing the circumstances under which information
20 concerning United States persons was acquired, retained,
21 or disseminated.

22 “(d) Application made and orders granted under this
23 title shall be retained for a period of at least ten years
24 from the date of the application.

1 “(e) Not more than 60 days after a physical search
2 of the residence of a United States person authorized by
3 this title, or such a search in the circumstances described
4 in section 406(b), has been conducted, the Attorney Gen-
5 eral shall provide the United States person with an inven-
6 tory which shall include—

7 “(1) existence or not of a court order authoriz-
8 ing the physical search and the date of the order;

9 “(2) the date of the physical search and an
10 identification of the premises or property searched;
11 and

12 “(3) a list of any information, material, or
13 property seized, altered, or reproduced.

14 “(f) On an ex parte showing of good cause by the
15 Attorney General to a judge of the Foreign Intelligence
16 Surveillance Court the provision of the inventory required
17 by subsection (e) may be postponed for a period not to
18 exceed 90 days. At the end of such period the provision
19 of the inventory may, upon a similar showing, be post-
20 poned indefinitely. The denial of a request for such post-
21 ponements may be reviewed as provided in section 401.

22 “USE OF INFORMATION

23 “SEC. 404. (a) Information acquired from a physical
24 search conducted pursuant to this title concerning any
25 United States person may be used and disclosed by Fed-
26 eral officers and employees without the consent of the

1 United States person only in accordance with the mini-
2 mization procedures required by this title. No information
3 acquired from a physical search pursuant to this title may
4 be used or disclosed by Federal officers or employees ex-
5 cept for lawful purposes.

6 “(b) No information acquired pursuant to this title
7 shall be disclosed for law enforcement purposes unless
8 such disclosure is accompanied by a statement that such
9 information, or any information derived therefrom, may
10 only be used in a criminal proceeding with the advance
11 authorization of the Attorney General.

12 “(c) Whenever the United States intends to enter into
13 evidence or otherwise use or disclose in any trial, hearing,
14 or other proceeding in or before any court, department,
15 officer, agency, regulatory body, or other authority of the
16 United States, against an aggrieved person, any informa-
17 tion obtained or derived from a physical search of the
18 premises or property of that aggrieved person pursuant
19 to the authority of this title, the United States shall, prior
20 to the trial, hearing, or the other proceeding or at a rea-
21 sonable time prior to an effort to so disclose or so use
22 that information or submit it in evidence, notify the ag-
23 grieved person and the court or other authority in which
24 the information is to be disclosed or used that the United
25 States intends to so disclose or so use such information.

1 “(d) Whenever any State or political subdivision
2 thereof intends to enter into evidence or otherwise use of
3 disclose in any trial, hearing, or other proceeding in or
4 before any court, department, officer, agency, regulatory
5 body, or other authority of a State or a political subdivi-
6 sion thereof against an aggrieved person any information
7 obtained or derived from a physical search of the premises
8 or property of that aggrieved person pursuant to the au-
9 thority of this title, the State or political subdivision there-
10 of shall notify the aggrieved person, the court or other
11 authority in which the information is to be disclosed or
12 used, and the Attorney General that the State or political
13 subdivision thereof intends to so disclose or so use such
14 information.

15 “(e) Any person against whom evidence obtained or
16 derived from a physical search to which he is an aggrieved
17 person is to be, or has been, introduced or otherwise used
18 or disclosed in any trial, hearing, or other proceeding in
19 or before any court, department, officer, agency, regu-
20 latory body, or other authority of the United States, a
21 State, or a political subdivision thereof, may move to sup-
22 press the evidence obtained or derived from such search
23 on the grounds that—

24 “(1) the information was unlawfully acquired;
25 or

1 “(2) the physical search was not made in con-
2 formity with an order of authorization or approval.
3 Such a motion shall be made before the trial, hearing, or
4 other proceeding unless there was no opportunity to make
5 such a motion or the person was not aware of the grounds
6 of the motion.

7 “(f) Whenever a court of other authority is notified
8 pursuant to subsection (c) or (d), or whenever a motion
9 is made pursuant to subsection (e), or whenever any mo-
10 tion or request is made by an aggrieved person pursuant
11 to any other statute or rule of the United States or any
12 State before any court or other authority of the United
13 States or any State to discover or obtain applications or
14 orders or other materials relating to a physical search au-
15 thorized by this title or to discover, obtain, or suppress
16 evidence or information obtained or derived from a phys-
17 ical search authorized by this title, the United States dis-
18 trict court or, where the motion is made before another
19 authority, the United States district court in the same dis-
20 trict as the authority shall, notwithstanding any other law,
21 if the Attorney General files an affidavit under oath that
22 disclosure or an adversary hearing would harm the na-
23 tional security of the United States, review in camera and
24 ex parte the application, order, and such other materials
25 relating to the physical search as may be necessary to de-

1 termine whether the physical search of the aggrieved per-
2 son was lawfully authorized and conducted. In making this
3 determination, the court may disclose to the aggrieved per-
4 son, under appropriate security procedures and protective
5 orders, portions of the application, order, or other mate-
6 rials relating to the physical search only where such disclo-
7 sure is necessary to make an accurate determination of
8 the legality of the physical search.

9 “(g) If the United States district court pursuant to
10 subsection (f) determines that the physical search was not
11 lawfully authorized or conducted, it shall, in accordance
12 with the requirements of law, suppress the evidence which
13 was unlawfully obtained or derived from the physical
14 search of the aggrieved person or otherwise grant the mo-
15 tion of the aggrieved person. If the court determines that
16 the physical search was lawfully authorized or conducted,
17 it shall deny the motion of the aggrieved person except
18 to the extent that due process requires discovery or disclo-
19 sure.

20 “(h) Orders granting motions or requests under sub-
21 section (g), decisions under this section that a physical
22 search was not lawfully authorized or conducted, and or-
23 ders of the United States district court requiring review
24 or granting disclosure of applications, orders or other ma-
25 terials relating to the physical search shall be final orders

1 and binding upon all courts of the United States and the
2 several States except a United States court of appeals and
3 the Supreme Court.

4 “(i) The provisions of this section regarding the use
5 or disclosure of information obtained or derived from a
6 physical search shall apply to information obtained or de-
7 rived from a search conducted without a court order to
8 obtain foreign intelligence information which is not a phys-
9 ical search as defined in this title solely because the exist-
10 ence of exigent circumstances would not require a warrant
11 for law enforcement purposes.

12 “OVERSIGHT

13 “SEC. 405. (a) On a semiannual basis the Attorney
14 General shall fully inform the House Permanent Select
15 Committee on Intelligence and the Senate Select Commit-
16 tee on Intelligence concerning all physical searches con-
17 ducted pursuant to this title, and all other searches, except
18 those reported under section 108 of this Act, conducted
19 in the United States for foreign intelligence purposes. On
20 an annual basis the Attorney General shall also provide
21 to those committees a report setting forth with respect to
22 the preceding calendar year—

23 “(1) the total number of applications made for
24 orders approving physical searches under this title;
25 and

1 “(2) the total number of such orders either
2 granted, modified, or denied.

3 “(b) Whenever a search is conducted without a court
4 order to obtain foreign intelligence information which is
5 not a physical search as defined in this title solely because
6 the existence of exigent circumstances would not require
7 a warrant for law enforcement purposes, a full report of
8 such search, including a description of the exigent cir-
9 cumstances, shall be maintained by the Attorney General.
10 Each such report shall be transmitted to the Foreign In-
11 telligence Surveillance Court promptly after the search is
12 conducted.

13 “AUTHORITY FOR INTELLIGENCE SEARCHES

14 “SEC. 406. (a) The procedures contained in this title
15 shall be the exclusive means by which a physical search,
16 as defined in this title, may be conducted in the United
17 States for foreign intelligence purposes, and an order is-
18 sued under this title authorizing a physical search shall
19 constitute a search warrant authorized by law for purposes
20 of any other law.

21 “(b) Searches conducted in the United States to col-
22 lect foreign intelligence information, other than physical
23 searches as defined in this title and electronic surveillance
24 as defined in this Act, and physical searches conducted
25 in the United States without a court order to collect for-
26 eign intelligence information may be conducted only pur-

1 suant to regulations issued by the Attorney General. Such
2 regulations, and any changes thereto, shall be provided to
3 the Select Committee on Intelligence of the Senate and
4 the Permanent Select Committee on Intelligence of the
5 House of Representatives at least 14 days prior to the tak-
6 ing effect. Any regulations issued by the Attorney General
7 regarding such searches which were in effect as of June
8 1, 1990, shall be deemed to be regulations required by
9 this subsection.

10 “PENALTIES

11 “SEC. 407. (a) OFFENSE.—A person is guilty of an
12 offense if he intentionally—

13 “(1) under color of law for the purpose of ob-
14 taining foreign intelligence information, engages in
15 physical search within the United States except as
16 authorized by statute; or

17 “(2) discloses or uses information obtained
18 under color of law by physical search within the
19 United States, knowing or having reason to know
20 that the information was obtained through physical
21 search not authorized by statute, for the purpose of
22 obtaining intelligence information.

23 “(b) DEFENSE.—It is a defense to a prosecution
24 under subsection (a) that the defendant was a law enforce-
25 ment or investigative officer engaged in the course of his
26 official duties and the physical search was authorized by

1 and conducted pursuant to a search warrant or court
2 order of a court of competent jurisdiction.

3 “(c) PENALTY.—An offense described in this section
4 is punishable by a fine in accordance with title 18, United
5 States Code, or imprisonment for not more than five
6 years, or both.

7 “(d) JURISDICTION.—There is Federal jurisdiction
8 over an offense under this section if the person committing
9 the offense was an officer or employee of the United States
10 at the time the offense was committed.

11 “CIVIL LIABILITY; CIVIL ACTION

12 “SEC. 408. An aggrieved person, other than a foreign
13 power or an agent of a foreign power, as defined in section
14 101 (a) or (b)(1)(A), respectively, of this Act, whose prem-
15 ises, property, information, or material has been subjected
16 to a physical search within the United States or about
17 whom information obtained by such a physical search has
18 been disclosed or used in violation of section 407 shall
19 have a cause of action against any person who committed
20 such violation and shall be entitled to recover—

21 “(a) actual damages;

22 “(b) punitive damages; and

23 “(c) reasonable attorney’s fees and other inves-
24 tigative and litigation costs reasonably incurred.

25 “DEFINITIONS

26 “9. AS USED IN THIS TITLE:

1 “(a) The terms ‘foreign power,’ ‘agent of a for-
2 foreign power,’ ‘international terrorism,’ ‘sabotage,’
3 ‘foreign intelligence information,’ ‘Attorney General,’
4 ‘United States person,’ ‘United States,’ ‘person,’
5 and ‘State’ shall have the same meaning as in Sec-
6 tion 101 of this Act.

7 “(b) ‘Physical search’ means any physical intru-
8 sion into premises or property (including examina-
9 tion of the interior of property by technical means)
10 or any seizure, reproduction or alteration of infor-
11 mation, material or property, under circumstances in
12 which a person has a reasonable expectation of pri-
13 vacy and a warrant would be required for law en-
14 forcement purposes, but does not include ‘electronic
15 surveillance’ as defined in subsection 101(f) of this
16 Act.

17 “(c) ‘Minimization procedures’ with respect to
18 physical search, means—

19 “(1) specific procedures, which shall be
20 adopted by the Attorney General, that are rea-
21 sonably designed in light of the purposes and
22 technique of the particular physical search, to
23 minimize the acquisition and retention, and pro-
24 hibit the dissemination, of non-publicly available
25 information concerning unconsenting United

1 States persons consistent with the need of the
2 United States to obtain, produce, and dissemi-
3 nate foreign intelligence information;

4 “(2) procedures that require that non-pub-
5 licly available information, which is not foreign
6 intelligence information, as defined in sub-
7 section 101(e)(1) of this Act, shall not be dis-
8 seminated in a manner that identifies any
9 United States person, without such person’s
10 consent, unless such person’s identity is nec-
11 essary to understand such foreign intelligence
12 information or assess its importance; and

13 “(3) notwithstanding paragraphs (1) and
14 (2), procedures that allow for the retention and
15 dissemination of information that is evidence of
16 a crime which has been, is being, or is about to
17 be committed and that is to be retained or dis-
18 seminated for law enforcement purposes.

19 “(d) ‘Aggrieved person’ means a person whose
20 premises, property, information, or material is the
21 target of physical search or any other person whose
22 premises, property, information, or material was
23 subject to physical search.

1 “(e) ‘Foreign Intelligence Surveillance Court’
2 means the court established by section 103(a) of this
3 Act.

4 “(f) ‘Court of Review’ means the court estab-
5 lished by section 103(b) of this Act.

6 “EFFECTIVE DATE

7 “SEC. 410. The provisions of this title shall become
8 effective 90 days after the date of enactment of this title,
9 except that any physical search approved by the Attorney
10 General to gather foreign intelligence information shall
11 not be deemed unlawful for failure to follow the procedures
12 of this title, if that search is conducted within 180 days
13 following the date of enactment of this title pursuant to
14 regulations issued by the Attorney General, which are in
15 the possession of the Select Committee on Intelligence of
16 the Senate and the Permanent Select Committee on Intel-
17 ligence of the House of Representatives prior to the date
18 of enactment of this title.”.

19 (b) The table of contents of the Foreign Intelligence
20 Surveillance Act of 1978 is amended by adding at the end
21 the following:

“TITLE IV—PHYSICAL SEARCHES WITHIN THE UNITED STATES
FOR FOREIGN INTELLIGENCE PURPOSES

“Sec. 401. Authorization of physical searches for foreign intelligence pur-
poses.

“Sec. 402. Application for an order .

“Sec. 403. Issuance of an order.

“Sec. 404. Use of information.

“Sec. 405. Oversight.

- “Sec. 406. Authority for intelligence searches.
- “Sec. 407. Penalties.
- “Sec. 408. Civil liability.
- “Sec. 409. Definitions.
- “Sec. 410. Effective date.”.



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