

108TH CONGRESS
1ST SESSION

S. 436

To amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2003

Mr. LEAHY (for himself, Mr. GRASSLEY, and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, 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 “Domestic Surveillance
5 Oversight Act of 2003”.

6 **SEC. 2. IMPROVEMENTS TO FOREIGN INTELLIGENCE SUR-**
7 **VEILLANCE ACT OF 1978.**

8 (a) RULES AND PROCEDURES FOR FISA COURTS.—
9 Section 103 of the Foreign Intelligence Surveillance Act

1 of 1978 (50 U.S.C. 1803) is amended by adding at the
2 end the following new subsection:

3 “(e)(1) The courts established pursuant to sub-
4 sections (a) and (b) may establish such rules and proce-
5 dures, and take such actions, as are reasonably necessary
6 to administer their responsibilities under this Act.

7 “(2) The rules and procedures established under
8 paragraph (1), and any modifications of such rules and
9 procedures, shall be recorded, and shall be transmitted to
10 the following:

11 “(A) All of the judges on the court established
12 pursuant to subsection (a).

13 “(B) All of the judges on the court of review es-
14 tablished pursuant to subsection (b).

15 “(C) The Chief Justice of the United States.

16 “(D) The Committee on the Judiciary of the
17 Senate.

18 “(E) The Select Committee on Intelligence of
19 the Senate.

20 “(F) The Committee on the Judiciary of the
21 House of Representatives.

22 “(G) The Permanent Select Committee on In-
23 telligence of the House of Representatives.”.

1 (b) REPORTING REQUIREMENTS.—(1) The Foreign
 2 Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
 3 seq.) is further amended—

4 (A) by redesignating title VI as title VII, and
 5 section 601 as section 701, respectively; and

6 (B) by inserting after title V the following new
 7 title:

8 “TITLE VI—PUBLIC REPORTING REQUIREMENT

9 “PUBLIC REPORT OF THE ATTORNEY GENERAL

10 “SEC. 601. In addition to the reports required by sec-
 11 tions 107, 108, 306, 406, and 502, in April of each year,
 12 the Attorney General shall issue a public report setting
 13 forth with respect to the preceding calendar year—

14 “(1) the aggregate number of United States
 15 persons targeted for orders issued under this Act,
 16 including those targeted for—

17 “(A) electronic surveillance under section
 18 105;

19 “(B) physical searches under section 304;

20 “(C) pen registers under section 402; and

21 “(D) access to records under section 501;

22 “(2) the number of times that the Attorney
 23 General has authorized that information obtained
 24 under such sections or any information derived
 25 therefrom may be used in a criminal proceeding;

1 “(3) the number of times that a statement was
2 completed pursuant to section 106(b), 305(c), or
3 405(b) to accompany a disclosure of information ac-
4 quired under this Act for law enforcement purposes;
5 and

6 “(4) in a manner consistent with the protection
7 of the national security of the United States—

8 “(A) the portions of the documents and
9 applications filed with the courts established
10 under section 103 that include significant con-
11 struction or interpretation of the provisions of
12 this Act or any provision of the United States
13 Constitution, not including the facts of any par-
14 ticular matter, which may be redacted;

15 “(B) the portions of the opinions and or-
16 ders of the courts established under section 103
17 that include significant construction or interpre-
18 tation of the provisions of this Act or any provi-
19 sion of the United States Constitution, not in-
20 cluding the facts of any particular matter,
21 which may be redacted; and

22 “(C) in the first report submitted under
23 this section, the matters specified in subpara-
24 graphs (A) and (B) for all documents and ap-
25 plications filed with the courts established

1 under section 103, and all otherwise unpub-
 2 lished opinions and orders of that court, for the
 3 4 years before the preceding calendar year in
 4 addition to that year.”.

5 (2) The table of contents for that Act is amended
 6 by striking the items for title VI and inserting the fol-
 7 lowing new items:

“TITLE VI—PUBLIC REPORTING REQUIREMENT

“Sec. 601. Public report of the Attorney General.

“TITLE VII—EFFECTIVE DATE

“Sec. 701. Effective date.”.

8 **SEC. 3. ADDITIONAL IMPROVEMENTS OF CONGRESSIONAL**
 9 **OVERSIGHT OF SURVEILLANCE ACTIVITIES.**

10 (a) TITLE 18, UNITED STATES CODE.—Section
 11 2709(e) of title 18, United States Code, is amended by
 12 adding at the end the following new sentence: “The infor-
 13 mation shall include a separate statement of all such re-
 14 quests made of institutions operating as public libraries
 15 or serving as libraries of secondary schools or institutions
 16 of higher education.”.

17 (b) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—
 18 Section 1114(a)(5)(C) of the Right to Financial Privacy
 19 Act of 1978 (12 U.S.C. 3414(a)(5)(C)) is amended to read
 20 as follows:

21 “(C)(i) On a semiannual basis the Attorney General
 22 shall fully inform the congressional intelligence commit-

tees, the Committee on the Judiciary of the House of Representatives, and the Committee on the Judiciary of the Senate concerning all requests made pursuant to this paragraph.

“(ii) In the case of the semiannual reports required to be submitted under clause (i) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.

“(iii) In this subparagraph, the term ‘congressional intelligence committees’ has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).”.

(c) FAIR CREDIT REPORTING ACT.—Section 625(h)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(1)), as amended by section 811(b)(8)(B) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306), is further amended—

(1) by striking “and the Committee on Banking, Finance and Urban Affairs of the House of Representatives” and inserting “, the Committee on Financial Services, and the Committee on the Judiciary of the House of Representatives”; and

(2) by striking “and the Committee on Banking, Housing, and Urban Affairs of the Senate” and

1 inserting “, the Committee on Banking, Housing,
2 and Urban Affairs, and the Committee on the Judi-
3 ciary of the Senate”.

○