

116TH CONGRESS
2D SESSION

H. R. 8970

To repeal the USA PATRIOT Act and the FISA Amendments Act of 2008,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 15, 2020

Ms. GABBARD (for herself and Mr. MASSIE) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Intelligence (Permanent Select), Financial Services, Foreign Affairs, Energy and Commerce, Education and Labor, Transportation and Infrastructure, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To repeal the USA PATRIOT Act and the FISA
Amendments Act of 2008, 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 “Protect Our Civil Lib-
5 erties Act”.

1 **SEC. 2. REPEAL OF USA PATRIOT ACT AND DESTRUCTION**
2 **OF CERTAIN INFORMATION.**

3 (a) REPEAL.—The USA PATRIOT Act (Public Law
4 107–56) is repealed, and the provisions of law amended
5 or repealed by such Act are restored or revived as if such
6 Act had not been enacted.

7 (b) DESTRUCTION OF CERTAIN INFORMATION.—The
8 Director of National Intelligence and the Attorney General
9 shall destroy any information collected under the USA
10 PATRIOT Act (Public Law 107–56) and the amendments
11 made by such Act, as in effect the day before the date
12 of the enactment of this Act, concerning a United States
13 person that is not related to an investigation that is ac-
14 tively ongoing on such date.

15 **SEC. 3. REPEAL OF THE FISA AMENDMENTS ACT OF 2008**
16 **AND DESTRUCTION OF CERTAIN INFORMA-**
17 **TION.**

18 (a) REPEAL.—The FISA Amendments Act of 2008
19 (Public Law 110–261; 122 Stat. 2477) is repealed, and
20 the provisions of law amended or repealed by such Act
21 are restored or revived as if such Act had not been en-
22 acted.

23 (b) EXCEPTION.—Subsection (a) of this Act shall not
24 apply to sections 103 and 110 of the FISA Amendments
25 Act of 2008 (Public Law 110–261; 122 Stat. 2477).

1 (c) DESTRUCTION OF CERTAIN INFORMATION.—The
 2 Director of National Intelligence and the Attorney General
 3 shall destroy any information collected under section 702
 4 of the Foreign Intelligence Surveillance Act of 1978 (50
 5 U.S.C. 1881a), as in effect the day before the date of the
 6 enactment of this Act, concerning a United States person
 7 that is not related to an investigation that is actively ongo-
 8 ing on such date.

9 **SEC. 4. INCREASE TERM LENGTH OF JUDGES ON FOREIGN**
 10 **INTELLIGENCE SURVEILLANCE COURT; RE-**
 11 **APPOINTMENT; APPOINTMENT OF SPECIAL**
 12 **MASTERS TO ADVISE COURTS.**

13 (a) TERMS; REAPPOINTMENT.—Section 103(d) of the
 14 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
 15 1803(d)) is amended—

16 (1) by striking “maximum of seven” and insert-
 17 ing “maximum of ten”; and

18 (2) by striking “and shall not be eligible for re-
 19 designation”.

20 (b) SPECIAL MASTERS.—Section 103(f) of such Act,
 21 as amended by section 3 of this Act, is further amended
 22 by adding at the end the following new paragraph:

23 “(4) SPECIAL MASTERS.—

24 “(A) The courts established pursuant to
 25 subsections (a) and (b) may appoint one or

1 more Special Masters to advise the courts on
2 technical issues raised during proceedings be-
3 fore the courts.

4 “(B) In this paragraph, the term ‘Special
5 Master’ means an individual who has techno-
6 logical expertise in the subject matter of a pro-
7 ceeding before a court established pursuant to
8 subsection (a) or (b).”.

9 **SEC. 5. ELECTRONIC SURVEILLANCE OF SPECIFIED PER-**
10 **SONS WITHOUT REGARD TO SPECIFIC DE-**
11 **VICE.**

12 Section 105(c)(2)(B) of the Foreign Intelligence Sur-
13 veillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amend-
14 ed to read as follows:

15 “(B) that, upon the request of the appli-
16 cant, any person or entity shall furnish the ap-
17 plicant forthwith all information, facilities, or
18 technical assistance necessary to accomplish the
19 electronic surveillance in such a manner as will
20 protect its secrecy and produce a minimum of
21 interference with the services that such carrier,
22 landlord, custodian, or other person is providing
23 that target of electronic surveillance;”.

1 **SEC. 6. ADDITIONAL PROVISIONS FOR COLLECTIONS**
2 **UNDER THE FOREIGN INTELLIGENCE SUR-**
3 **VEILLANCE ACT OF 1978.**

4 (a) **IN GENERAL.**—Title VII of the Foreign Intel-
5 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.),
6 as amended by section 3 of this Act, is further amended
7 to read as follows:

8 **“TITLE VII—ADDITIONAL**
9 **PROVISIONS**

10 **“SEC. 701. WARRANT REQUIREMENT.**

11 “Notwithstanding any other provision of this Act, no
12 information relating to a United States person may be ac-
13 quired pursuant to this Act without a valid warrant based
14 on probable cause.”.

15 (b) **TABLE OF CONTENTS AMENDMENTS.**—The table
16 of contents in the first section of the Foreign Intelligence
17 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as
18 amended by section 3 of this Act, is further amended by
19 striking the items relating to title VII and section 701 and
20 inserting the following new items:

“TITLE VII—ADDITIONAL PROVISIONS

“701. Warrant requirement.”.

1 **SEC. 7. PROHIBIT GOVERNMENT MANDATED “BACKDOORS”**
2 **INTO ENCRYPTION AND PRIVACY TECH-**
3 **NOLOGY OF ELECTRONIC DEVICES AND**
4 **SOFTWARE.**

5 Notwithstanding any other provision of law, the Fed-
6 eral Government shall not mandate that the manufacturer
7 of an electronic device or software for an electronic device
8 build into such device or software a mechanism that allows
9 the Federal Government to bypass the encryption or pri-
10 vacy technology of such device or software.

11 **SEC. 8. MANDATE ANNUAL GAO COMPLIANCE EVALUA-**
12 **TIONS.**

13 (a) **IN GENERAL.**—The Comptroller General of the
14 United States shall annually evaluate compliance by the
15 Federal Government with the provisions of the Foreign In-
16 telligence Surveillance Act of 1978 (50 U.S.C. 1801 et
17 seq.).

18 (b) **REPORT.**—The Comptroller General shall annu-
19 ally submit to Congress a report containing the results of
20 the evaluation conducted under subsection (a).

21 **SEC. 9. PROHIBIT RETALIATION FOR WHISTLEBLOWER**
22 **COMPLAINTS.**

23 (a) **AUTHORIZATION TO REPORT COMPLAINTS OR**
24 **INFORMATION.**—An employee of or contractor to an ele-
25 ment of the intelligence community that has knowledge of
26 the programs and activities authorized by the Foreign In-

1 telligence Surveillance Act of 1978 (50 U.S.C. 1801 et
2 seq.) may submit a covered complaint—

3 (1) to the Comptroller General of the United
4 States;

5 (2) to the Permanent Select Committee on In-
6 telligence of the House of Representatives;

7 (3) to the Select Committee on Intelligence of
8 the Senate; or

9 (4) in accordance with the process established
10 under section 103H(k)(5) of the National Security
11 Act of 1947 (50 U.S.C. 3033(k)(5)).

12 (b) INVESTIGATIONS AND REPORTS TO CONGRESS.—
13 The Comptroller General shall investigate a covered com-
14 plaint submitted pursuant to subsection (b)(1) and shall
15 submit to Congress a report containing the results of the
16 investigation.

17 (c) COVERED COMPLAINT DEFINED.—In this sec-
18 tion, the term “covered complaint” means a complaint or
19 information concerning programs and activities authorized
20 by the Foreign Intelligence Surveillance Act of 1978 (50
21 U.S.C. 1801 et seq.) that an employee or contractor rea-
22 sonably believes is evidence of —

23 (1) a violation of any law, rule, or regulation;
24 or

1 (2) gross mismanagement, a gross waste of
2 funds, an abuse of authority, or a substantial and
3 specific danger to public health or safety.

4 **SEC. 10. PROHIBIT INTERFERENCE WITH REPORTING OF**
5 **WASTE, FRAUD, ABUSE, OR CRIMINAL BEHAV-**
6 **IOR.**

7 (a) IN GENERAL.—Notwithstanding any other provi-
8 sion of law, no officer or employee of an element of the
9 intelligence community shall take any retaliatory action
10 against an employee of or contractor to an element of the
11 intelligence community who seeks to disclose or discloses
12 covered information to—

13 (1) the Comptroller General;

14 (2) the Permanent Select Committee on Intel-
15 ligence of the House of Representatives;

16 (3) the Select Committee on Intelligence of the
17 Senate; or

18 (4) the Office of the Inspector General of the
19 Intelligence Community.

20 (b) ADMINISTRATIVE SANCTIONS.—An officer or em-
21 ployee of an element of the intelligence community who
22 violates subsection (a) shall be subject to administrative
23 sanctions, up to and including termination.

24 (c) DEFINITIONS.—In this section:

1 (1) COVERED INFORMATION.—The term “cov-
 2 ered information” means any information (including
 3 classified or sensitive information) that an employee
 4 or contractor reasonably believes is evidence of—

5 (A) a violation of any law, rule, or regula-
 6 tion; or

7 (B) gross mismanagement, a gross waste
 8 of funds, an abuse of authority, or a substantial
 9 and specific danger to public health or safety.

10 (2) INTELLIGENCE COMMUNITY.—The term
 11 “intelligence community” has the meaning given the
 12 term in section 3 of the National Security Act of
 13 1947 (50 U.S.C. 3003).

14 **SEC. 11. PROHIBIT TARGETING UNITED STATES PERSONS**
 15 **UNDER EXECUTIVE ORDER 12333 WITHOUT A**
 16 **WARRANT.**

17 (a) PROHIBITION ON TARGETING OF UNITED
 18 STATES PERSONS WITHOUT A WARRANT.—Notwith-
 19 standing any other provision of law, no United States per-
 20 son may be the target of an acquisition under Executive
 21 Order 12333 without a valid warrant based on probable
 22 cause.

23 (b) AUDIT OF COMPLIANCE WITH PROHIBITION.—

24 (1) AUDIT.—The Comptroller General of the
 25 United States shall annually conduct an audit of in-

1 intelligence collection under Executive Order 12333 to
2 ensure compliance with the requirement under sub-
3 section (a).

4 (2) REPORT.—The Comptroller General shall
5 annually submit to Congress a report containing the
6 results of each audit conducted under paragraph (1).

7 (c) DESTRUCTION OF CERTAIN INFORMATION.—The
8 Director of National Intelligence and the Attorney General
9 shall destroy any information collected under Executive
10 Order 12333 without a valid warrant based on probable
11 cause concerning a United States person that is not re-
12 lated to an investigation that is actively ongoing on the
13 date of the enactment of this Act.

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