

118TH CONGRESS
1ST SESSION

H. R. 237

To repeal the Foreign Intelligence Surveillance Act.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 10, 2023

Mr. BIGGS introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Permanent Select Committee on Intelligence, 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 Foreign Intelligence Surveillance Act.

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 “Fourth Amendment
5 Restoration Act”.

6 **SEC. 2. REPEAL OF FOREIGN SURVEILLANCE AUTHORI-**
7 **TIES.**

8 The Foreign Intelligence Surveillance Act of 1978
9 (50 U.S.C. 1801 et seq.) is repealed.

1 **SEC. 3. DEFINITIONS.**

2 For the purposes of this Act—

3 (a) **PEN REGISTER AND TRAP AND TRACE DE-**
4 **VICE.**—The terms “pen register” and “trap and trace de-
5 vice” have the meanings given such terms in section 3127
6 of title 18, United States Code.

7 (b) **UNITED STATES CITIZEN.**—The term “United
8 States citizen” means an individual who is a citizen of the
9 United States.

10 (c) **FOREIGN INTELLIGENCE INFORMATION.**—The
11 term “foreign intelligence information” means—

12 (1) information that relates to, and if con-
13 cerning a United States citizen is necessary to, the
14 ability of the United States to protect against—

15 (A) actual or potential attack or other
16 grave hostile acts of a foreign power or an
17 agent of a foreign power;

18 (B) sabotage, international terrorism, or
19 the intentional proliferation of weapons of mass
20 destruction by a foreign power or an agent of
21 a foreign power; or

22 (C) clandestine intelligence activities by an
23 intelligence service or network of a foreign
24 power or by an agent of a foreign power; or

1 (2) information with respect to a foreign power
2 or foreign territory that relates to, and if concerning
3 a United States citizen, is necessary to—

4 (A) the national defense or the security of
5 the United States; or

6 (B) the conduct of the foreign affairs of
7 the United States.

8 (d) **ELECTRONIC SURVEILLANCE.**—The term “elec-
9 tronic surveillance” means—

10 (1) the acquisition by an electronic, mechanical,
11 or other surveillance device of the contents of any
12 wire or radio communication sent by or intended to
13 be received by a particular, known United States citi-
14 zen who is in the United States, if the contents are
15 acquired by intentionally targeting that United
16 States citizen, under circumstances in which a citi-
17 zen has a reasonable expectation of privacy and a
18 warrant would be required for law enforcement pur-
19 poses; or

20 (2) the installation or use of an electronic, me-
21 chanical, or other surveillance device in the United
22 States for monitoring to acquire information, other
23 than from a wire or radio communication, under cir-
24 cumstances in which a citizen has a reasonable ex-

1 pectation of privacy and a warrant would be re-
2 quired for law enforcement purposes.

3 (e) WIRE COMMUNICATION.—The term “wire com-
4 munication” means any communication while it is being
5 carried by a wire, cable, or other like connection furnished
6 or operated by any person engaged as a common carrier
7 in providing or operating such facilities for the trans-
8 mission of interstate or foreign communications.

9 **SEC. 4. PROHIBITIONS ON SURVEILLING UNITED STATES**
10 **CITIZENS.**

11 (a) An officer of the United States must obtain a
12 warrant issued using the procedures described in the Fed-
13 eral Rules of Criminal Procedure by a Federal court in
14 order to conduct or request—

15 (1) electronic surveillance of a United States
16 citizen;

17 (2) a physical search of a premises, informa-
18 tion, material, or property used exclusively by, or
19 under the open and exclusive control of, a United
20 States citizen;

21 (3) approval of the installation and use of a pen
22 register or trap and trace device, a sole or signifi-
23 cant purpose of which is to obtain foreign intel-
24 ligence information concerning a United States cit-
25 izen;

1 (4) the production of tangible things (including
2 books, records, papers, documents, and other items)
3 concerning a United States citizen to obtain foreign
4 intelligence information; or

5 (5) the targeting of a United States citizen for
6 the acquisition of foreign intelligence information.

7 (b) Any information concerning a United States cit-
8 izen acquired under Executive Order 12333 (50 U.S.C.
9 3001 note; relating to United States intelligence activities)
10 shall not be used in evidence against that United States
11 citizen in any criminal, civil, or administrative proceeding
12 or as part of any criminal, civil, or administrative inves-
13 tigation.

14 **SEC. 5. LIMITATION ON USE OF INFORMATION CON-**
15 **CERNING UNITED STATES CITIZENS.**

16 Any information concerning a United States citizen
17 acquired during surveillance of a non-United States citizen
18 shall not be used in evidence against that United States
19 citizen in any criminal, civil, or administrative proceeding
20 or as part of any criminal, civil, or administrative inves-
21 tigation.

22 **SEC. 6. CRIMINAL SANCTIONS.**

23 (a) A person is guilty of an offense if he inten-
24 tionally—

1 (1) engages in any of the offenses described in
2 section 4, except as authorized by this Act, title 18,
3 or any express statutory authorization that is an ad-
4 ditional exclusive means for conducting electronic
5 surveillance under section 1812 of title 50; or

6 (2) discloses or uses information obtained under
7 color of law by any of the methods described in sec-
8 tion 4, paragraph (1), knowing or having reason to
9 know that the information was obtained without au-
10 thorization by this chapter, title 18, or any express
11 statutory authorization that is an additional exclu-
12 sive means for conducting electronic surveillance
13 under section 1812 of title 50.

14 (b) It is a defense to prosecution under subsection
15 (a) that the defendant was a law enforcement officer or
16 investigative officer engaging in the course of his official
17 duties and the conduct was authorized and conducted pur-
18 suant to a search warrant or court order of a court of
19 competent jurisdiction.

20 (c) An offense described in this section is punishable
21 by a fine of not more than \$10,000 or imprisonment for
22 not less than five years, or both.

23 (d) There is a Federal jurisdiction over an offense
24 under this section if the person committing the offense

1 was an officer or employee of the United States at the
2 time the offense was committed.

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