

113TH CONGRESS
1ST SESSION

H. R. 2818

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

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2013

Mr. HOLT introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committee on Intelligence (Permanent Select), Financial Services, Foreign Affairs, Energy and Commerce, Education and the Workforce, 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 “Surveillance State Re-
5 peal Act”.

6 **SEC. 2. REPEAL OF USA PATRIOT ACT.**

7 The USA PATRIOT Act (Public Law 107–56) is re-
8 pealed, and the provisions of law amended or repealed by

1 such Act are restored or revived as if such Act had not
2 been enacted.

3 **SEC. 3. REPEAL OF THE FISA AMENDMENTS ACT OF 2008.**

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5 (Public Law 110–261; 122 Stat. 2477) is repealed, and
6 the provisions of law amended or repealed by such Act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

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

12 **SEC. 4. TERMS OF JUDGES ON FOREIGN INTELLIGENCE**
13 **SURVEILLANCE COURT; REAPPOINTMENT;**
14 **SPECIAL MASTERS.**

15 (a) TERMS; REAPPOINTMENT.—Section 103(d) of the
16 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
17 1803(d)) is amended—

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

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

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

25 “(4) SPECIAL MASTERS.—

1 “(A) The courts established pursuant to sub-
2 sections (a) and (b) may appoint one or more Spe-
3 cial Masters to advise the courts on technical issues
4 raised during proceedings before the courts.

5 “(B) In this paragraph, the term ‘Special Mas-
6 ter’ means an individual who has technological ex-
7 pertise in the subject matter of a proceeding before
8 a court established pursuant to subsection (a) or
9 (b).”.

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

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

16 “(B) that, upon the request of the appli-
17 cant, any person or entity shall furnish the ap-
18 plicant forthwith all information, facilities, or
19 technical assistance necessary to accomplish the
20 electronic surveillance in such a manner as will
21 protect its secrecy and produce a minimum of
22 interference with the services that such carrier,
23 landlord, custodian, or other person is providing
24 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.”.

21 **SEC. 7. ENCRYPTION AND PRIVACY TECHNOLOGY OF ELEC-**
22 **TRONIC DEVICES AND SOFTWARE.**

23 Notwithstanding any other provision of law, the Fed-
24 eral Government shall not mandate that the manufacturer

1 of an electronic device or software for an electronic device
2 build into such device or software a mechanism that allows
3 the Federal Government to bypass the encryption or pri-
4 vacy technology of such device or software.

5 **SEC. 8. GAO COMPLIANCE EVALUATIONS.**

6 (a) IN GENERAL.—The Comptroller General of the
7 United States shall annually evaluate compliance by the
8 Federal Government with the provisions of the Foreign In-
9 telligence Surveillance Act of 1978 (50 U.S.C. 1801 et
10 seq.).

11 (b) REPORT.—The Comptroller General shall annu-
12 ally submit to Congress a report containing the results of
13 the evaluation conducted under subsection (a).

14 **SEC. 9. WHISTLEBLOWER COMPLAINTS.**

15 (a) AUTHORIZATION TO REPORT COMPLAINTS OR
16 INFORMATION.—An employee of or contractor to an ele-
17 ment of the intelligence community that has knowledge of
18 the programs and activities authorized by the Foreign In-
19 telligence Surveillance Act of 1978 (50 U.S.C. 1801 et
20 seq.) may submit a covered complaint—

21 (1) to the Comptroller General of the United
22 States;

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

1 (3) to the Select Committee on Intelligence of
2 the Senate; or

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

6 (b) INVESTIGATIONS AND REPORTS TO CONGRESS.—
7 The Comptroller General shall investigate a covered com-
8 plaint submitted pursuant to subsection (b)(1) and shall
9 submit to Congress a report containing the results of the
10 investigation.

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

17 (1) a violation of any law, rule, or regulation;
18 or

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

1 **SEC. 10. PROHIBITION ON INTERFERENCE WITH REPORT-**
2 **ING OF WASTE, FRAUD, ABUSE, OR CRIMINAL**
3 **BEHAVIOR.**

4 (a) **IN GENERAL.**—Notwithstanding any other provi-
5 sion of law, an officer or employee of an element of the
6 intelligence community shall be subject to administrative
7 sanctions, up to and including termination, for taking re-
8 taliatory action against an employee of or contractor to
9 an element of the intelligence community who seeks to dis-
10 close or discloses covered information to—

11 (1) the Comptroller General;

12 (2) the Permanent Select Committee on Intel-
13 ligence of the House of Representatives;

14 (3) the Select Committee on Intelligence of the
15 Senate; or

16 (4) the Office of the Inspector General of the
17 Intelligence Community.

18 (b) **DEFINITIONS.**—In this section:

19 (1) **COVERED INFORMATION.**—The term “cov-
20 ered information” means any information (including
21 classified or sensitive information) that an employee
22 or contractor reasonably believes is evidence of—

23 (A) a violation of any law, rule, or regula-
24 tion; or

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

4 (2) INTELLIGENCE COMMUNITY.—The term
5 “intelligence community” has the meaning given the
6 term in section 3 of the National Security Act of
7 1947 (50 U.S.C. 3003).

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