

113TH CONGRESS
1ST SESSION

H. R. 2586

To amend the Foreign Intelligence Surveillance Act of 1978 to provide for the designation of Foreign Intelligence Surveillance Court judges by the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority and minority leaders of the Senate, and the Chief Justice of the Supreme Court, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2013

Mr. COHEN introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Select Committee on Intelligence (Permanent Select), 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 amend the Foreign Intelligence Surveillance Act of 1978 to provide for the designation of Foreign Intelligence Surveillance Court judges by the Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority and minority leaders of the Senate, and the Chief Justice of the Supreme Court, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “FISA Court Account-
3 ability Act”.

4 **SEC. 2. DESIGNATION OF FOREIGN INTELLIGENCE SUR-
5 VEILLANCE COURT JUDGES.**

6 Section 103 of the Foreign Intelligence Surveillance
7 Act of 1978 (50 U.S.C. 1803) is amended—

8 (1) in subsection (a)—

9 (A) by striking paragraph (1) and insert-
10 ing the following new paragraph:

11 “(1)(A) There is established a court which shall have
12 jurisdiction to hear applications for and grant orders ap-
13 proving electronic surveillance anywhere within the United
14 States under the procedures set forth in this Act.

15 “(B) The court established under paragraph (1) shall
16 consist of 11 publicly designated district court judges, of
17 whom—

18 “(i) 3 judges shall be designated by the Chief
19 Justice;

20 “(ii) 2 judges shall be designated by the Speak-
21 er of the House of Representatives;

22 “(iii) 2 judges shall be designated by the minor-
23 ity leader of the House of Representatives;

24 “(iv) 2 judges shall be designated by the major-
25 ity leader of the Senate; and

1 “(v) 2 judges shall be designated by the minor-
2 ity leader of the Senate.

3 “(C) No judge designated under this subsection (ex-
4 cept when sitting en banc under paragraph (2)) shall hear
5 the same application for electronic surveillance under this
6 Act which has been denied previously by another judge
7 designated under this subsection. If any judge so des-
8 ignated denies an application for an order authorizing
9 electronic surveillance under this Act, such judge shall
10 provide immediately for the record a written statement of
11 each reason for his decision and, on motion of the United
12 States, the record shall be transmitted, under seal, to the
13 court of review established in subsection (b).”; and

14 (B) in paragraph (2), by adding at the end
15 the following new subparagraph:

16 “(D) Any authority exercised by the court en banc
17 under this paragraph shall only be exercised when agreed
18 to by 60 percent or more of the judges sitting en banc.”;
19 and

20 (2) in subsection (b)—

21 (A) in the first sentence, by striking “The
22 Chief Justice shall publicly designate three
23 judges, one of whom shall be publicly designate
24 as the presiding judge” and inserting “The
25 Chief Justice, the Speaker of the House of Rep-

1 representatives, and the majority leader of the
2 Senate or, if the majority leader is a member
3 of the same political party as the Speaker, the
4 minority leader of the Senate, shall each pub-
5 licly designate one judge, one of whom the
6 Chief Justice shall publicly designate as the
7 presiding judge”; and

8 (B) by adding at the end the following:
9 “Such court may only decide in favor of the
10 Government if the decision of the judges of
11 such court is unanimous.”.

12 **SEC. 3. SUBMISSION OF FOREIGN INTELLIGENCE SURVEIL-**
13 **LANCE COURT OPINIONS TO CONGRESS.**

14 Section 601(c) of the Foreign Intelligence Surveil-
15 lance Act of 1978 (50 U.S.C. 1871(c)) is amended—

16 (1) in paragraph (1)—

17 (A) by striking “that includes significant
18 construction or interpretation of any provision
19 of this Act,”; and

20 (B) by striking “; and” and inserting a
21 semicolon;

22 (2) in paragraph (2), by striking the period and
23 inserting “; and”; and

24 (3) by adding at the end the following new
25 paragraph:

1 “(3) an unclassified summary of each such deci-
2 sion, order, or opinion.”.

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