

109TH CONGRESS
1ST SESSION

S. 317

To protect privacy by limiting the access of the Government to library, bookseller, and other personal records for foreign intelligence and counterintelligence purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 2005

Mr. FEINGOLD (for himself, Mr. AKAKA, Mr. BINGAMAN, Ms. CANTWELL, Mr. CORZINE, Mr. DAYTON, Mr. DURBIN, Mr. JEFFORDS, Mr. KENNEDY, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect privacy by limiting the access of the Government to library, bookseller, and other personal records for foreign intelligence and counterintelligence 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 “Library, Bookseller,
5 and Personal Records Privacy Act”.

1 **SEC. 2. PRIVACY PROTECTIONS ON GOVERNMENT ACCESS**
 2 **TO LIBRARY, BOOKSELLER, AND OTHER PER-**
 3 **SONAL RECORDS UNDER FOREIGN INTEL-**
 4 **LIGENCE SURVEILLANCE ACT OF 1978.**

5 (a) APPLICATIONS FOR ORDERS.—Subsection (b) of
 6 section 501 of the Foreign Intelligence Surveillance Act
 7 of 1978 (50 U.S.C. 1861) is amended—

8 (1) in paragraph (1), by striking “and” at the
 9 end;

10 (2) in paragraph (2), by striking the period at
 11 the end and inserting “; and”; and

12 (3) by adding at the end the following new
 13 paragraph:

14 “(3) shall specify that there are specific and
 15 articulable facts giving reason to believe that the
 16 person to whom the records pertain is a foreign
 17 power or an agent of a foreign power.”.

18 (b) ORDERS.—Subsection (c)(1) of that section is
 19 amended by striking “finds” and all that follows and in-
 20 serting “finds that—

21 “(A) there are specific and articulable facts giv-
 22 ing reason to believe that the person to whom the
 23 records pertain is a foreign power or an agent of a
 24 foreign power; and

25 “(B) the application meets the other require-
 26 ments of this section.”.

1 (c) OVERSIGHT OF REQUESTS FOR PRODUCTION OF
 2 RECORDS.—Section 502 of that Act (50 U.S.C. 1862) is
 3 amended—

4 (1) in subsection (a), by striking “the Perma-
 5 nent” and all that follows through “the Senate” and
 6 inserting “the Permanent Select Committee on Intel-
 7 ligence and the Committee on the Judiciary of the
 8 House of Representatives and the Select Committee
 9 on Intelligence and the Committee on the Judiciary
 10 of the Senate”; and

11 (2) in subsection (b), by striking “On a semi-
 12 annual basis,” and all that follows through “a report
 13 setting forth” and inserting “The report of the At-
 14 torney General to the Committees on the Judiciary
 15 of the House of Representatives and the Senate
 16 under subsection (a) shall set forth”.

17 **SEC. 3. PRIVACY PROTECTIONS ON GOVERNMENT ACCESS**
 18 **TO INFORMATION ON COMPUTER USERS AT**
 19 **BOOKSELLERS AND LIBRARIES UNDER NA-**
 20 **TIONAL SECURITY AUTHORITY.**

21 (a) IN GENERAL.—Section 2709 of title 18, United
 22 States Code, is amended—

23 (1) by redesignating subsection (e) as sub-
 24 section (f); and

1 (2) by inserting after subsection (d) the fol-
 2 lowing new subsection (e):

3 “(e) RECORDS OF BOOKSELLERS AND LIBRARIES.—

4 (1) When a request under this section is made to a book-
 5 seller or library, the certification required by subsection
 6 (b) shall also specify that there are specific and articulable
 7 facts giving reason to believe that the person or entity to
 8 whom the records pertain is a foreign power or an agent
 9 of a foreign power.

10 “(2) In this subsection:

11 “(A) The term ‘bookseller’ means a person or
 12 entity engaged in the sale, rental, or delivery of
 13 books, journals, magazines, or other similar forms of
 14 communication in print or digitally.

15 “(B) The term ‘library’ means a library (as
 16 that term is defined in section 213(2) of the Library
 17 Services and Technology Act (20 U.S.C. 9122(2)))
 18 whose services include access to the Internet, books,
 19 journals, magazines, newspapers, or other similar
 20 forms of communication in print or digitally to pa-
 21 trons for their use, review, examination, or circula-
 22 tion.

23 “(C) The terms ‘foreign power’ and ‘agent of a
 24 foreign power’ have the meaning given such terms in

1 section 101 of the Foreign Intelligence Surveillance
2 Act of 1978 (50 U.S.C. 1801).”.

3 (b) SUNSET OF CERTAIN MODIFICATIONS ON AC-
4 CESS.—Section 224(a) of the USA PATRIOT ACT of
5 2001 (Public Law 107–56; 115 Stat. 295) is amended by
6 inserting “and section 505” after “by those sections”).

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