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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

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''FISA Court Accountability Act''.

SEC. 2. DESIGNATION OF FOREIGN INTELLIGENCE SURVEILLANCE COURT JUDGES.

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

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following new paragraph:

''(1)(A) There is established a court which shall have jurisdiction to hear applications for and grant orders approving electronic surveillance anywhere within the United States under the procedures set forth in this Act.

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

''(i) 3 judges shall be designated by the Chief Justice;

''(ii) 2 judges shall be designated by the Speaker of the House of Representatives;

''(iii) 2 judges shall be designated by the minority leader of the House of Representatives;

''(iv) 2 judges shall be designated by the majority leader of the Senate; and

''(v) 2 judges shall be designated by the minority leader of the Senate.

''(C) No judge designated under this subsection (except when sitting en banc under paragraph (2)) shall hear the same application for electronic surveillance under this Act which has been denied previously by another judge designated under this subsection. If any judge so designated denies an application for an order authorizing electronic surveillance under this Act, such judge shall provide immediately for the record a written statement of each reason for his decision and, on motion of the United States, the record shall be transmitted, under seal, to the court of review established in subsection (b).''; and

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

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

(2) in subsection (b)—

(A) in the first sentence, by striking ''The Chief Justice shall publicly designate three judges, one of whom shall be publicly designate as the presiding judge'' and inserting ''The Chief Justice, the Speaker of the House of Rep-

resentatives, and the majority leader of the Senate or, if the majority leader is a member of the same political party as the Speaker, the minority leader of the Senate, shall each publicly designate one judge, one of whom the Chief Justice shall publicly designate as the presiding judge''; and

(B) by adding at the end the following: ''Such court may only decide in favor of the Government if the decision of the judges of such court is unanimous.''.

SEC. 3. SUBMISSION OF FOREIGN INTELLIGENCE SURVEILLANCE COURT OPINIONS TO CONGRESS.

Section 601(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1871(c)) is amended—

(1) in paragraph (1)—

(A) by striking ''that includes significant construction or interpretation of any provision of this Act,''; and

(B) by striking ''; and'' and inserting a semicolon;

(2) in paragraph (2), by striking the period and inserting ''; and''; and

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

''(3) an unclassified summary of each such decision, order, or opinion.''.

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