

113TH CONGRESS
1ST SESSION

H. R. 3195

To amend the Foreign Intelligence Surveillance Act of 1978 to provide for the designation of Foreign Intelligence Surveillance Court judges by the President, majority of the Supreme Court, Speaker and minority leader of the House of Representatives, and majority leader and minority leader of the Senate, and to provide for the public disclosure of Foreign Intelligence Surveillance Court decisions.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2013

Mr. ISRAEL 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 President, majority of the Supreme Court, Speaker and minority leader of the House of Representatives, and majority leader and minority leader of the Senate, and to provide for the public disclosure of Foreign Intelligence Surveillance Court decisions.

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 Oversight
3 Underscoring Responsibility and Transparency Act” or
4 the “FISA COURT Act”.

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

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

9 (1) in subsection (a), by striking paragraph (1)
10 and inserting 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) 2 judges shall be designated by the Presi-
19 dent;

20 “(ii) 1 judge shall be designated by a majority
21 of the Supreme Court;

22 “(iii) 2 judges shall be designated by the Speak-
23 er of the House of Representatives;

24 “(iv) 2 judges shall be designated by the minor-
25 ity leader of the House of Representatives;

1 “(v) 2 judges shall be designated by the major-
2 ity leader of the Senate; and

3 “(vi) 2 judges shall be designated by the minor-
4 ity leader of the Senate.

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

16 (2) in subsection (b), by striking “The Chief
17 Justice” and inserting “A majority of the Supreme
18 Court”.

19 **SEC. 3. PUBLIC AVAILABILITY OF SIGNIFICANT OPINIONS**
20 **OF THE FOREIGN INTELLIGENCE SURVEIL-**
21 **LANCE COURT.**

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

24 (1) in subsection (c)—

1 (A) in the heading, by striking “SUBMIS-
2 SIONS TO CONGRESS” and inserting “SUBMIS-
3 SIONS TO CONGRESS AND PUBLIC AVAIL-
4 ABILITY OF CERTAIN OPINIONS”; and

5 (B) in the matter preceding paragraph
6 (1)—

7 (i) by striking “The Attorney Gen-
8 eral” and inserting “Subject to subsection
9 (d), the Attorney General”; and

10 (ii) by inserting “and make publicly
11 available” after “in subsection (a)”; and

12 (2) in subsection (d)—

13 (A) by striking “PROTECTION OF NA-
14 TIONAL SECURITY.—The Attorney General”
15 and inserting the following: “PROTECTION OF
16 NATIONAL SECURITY.—

17 “(1) REDACTION OF MATERIALS.—The Attor-
18 ney General”;

19 (B) in paragraph (1), as designated under
20 subparagraph (A), by inserting “and made pub-
21 licly available” after “in subsection (a)”; and

22 (C) by adding at the end the following new
23 paragraph:

24 “(2) WAIVER OF PUBLIC AVAILABILITY.—

1 “(A) WAIVER.—The Attorney General, in
2 consultation with the Director of National Intel-
3 ligence, may waive the requirement to make a
4 decision, order, or opinion described in sub-
5 section (c) publicly available under such sub-
6 section if the Attorney General determines the
7 public disclosure of such decision, order, or
8 opinion (including public disclosure in redacted
9 form) would cause harm to the national security
10 of the United States.

11 “(B) REPORT.—The Attorney General
12 shall quarterly make publicly available an esti-
13 mate of the number of decisions, orders, or
14 opinions for which the Attorney General waived
15 under subparagraph (A) the requirement under
16 subsection (c) to make such decisions, orders,
17 or opinions publicly available and the reasons
18 for waiving such requirement.”.

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