

114TH CONGRESS
1ST SESSION

S. 1337

To reform the Privacy and Civil Liberties Oversight Board, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 2015

Mr. WYDEN (for himself and Mr. UDALL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To reform the Privacy and Civil Liberties Oversight Board,
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 TITLES.**

4 This Act may be cited as the “Strengthening Privacy,
5 Oversight, and Transparency Act” or the “SPOT Act”.

6 **SEC. 2. INCLUSION OF FOREIGN INTELLIGENCE ACTIVITIES**

7 **IN OVERSIGHT AUTHORITY OF THE PRIVACY**
8 **AND CIVIL LIBERTIES OVERSIGHT BOARD.**

9 Section 1061 of the Intelligence Reform and Ter-
10 rorism Prevention Act of 2004 (42 U.S.C. 2000ee) is

1 amended by inserting “and conduct foreign intelligence ac-
 2 tivities” after “terrorism” in the following provisions:

3 (1) Paragraphs (1) and (2) of subsection (c).

4 (2) Subparagraphs (A) and (B) of subsection
 5 (d)(1).

6 (3) Subparagraphs (A), (B), and (C) of sub-
 7 section (d)(2).

8 **SEC. 3. SUBMISSION OF WHISTLEBLOWER COMPLAINTS TO**
 9 **THE PRIVACY AND CIVIL LIBERTIES OVER-**
 10 **SIGHT BOARD.**

11 Section 1061 of the Intelligence Reform and Ter-
 12 rorism Prevention Act of 2004 (42 U.S.C. 2000ee), as
 13 amended by section 2, is further amended—

14 (1) in subsection (d), by adding at the end the
 15 following new paragraph:

16 “(5) WHISTLEBLOWER COMPLAINTS.—

17 “(A) SUBMISSION TO BOARD.—An em-
 18 ployee of, or contractor or detailee to, an ele-
 19 ment of the intelligence community may submit
 20 to the Board a complaint or information that
 21 such employee, contractor, or detailee believes
 22 relates to a privacy or civil liberties concern.

23 “(B) AUTHORITY OF BOARD.—The Board
 24 may take such action as the Board considers
 25 appropriate with respect to investigating a com-

1 complaint or information submitted under subpara-
2 graph (A) or transmitting such complaint or in-
3 formation to any other Executive agency or the
4 congressional intelligence committees.

5 “(C) RELATIONSHIP TO EXISTING LAWS.—

6 The authority under subparagraph (A) of an
7 employee, contractor, or detailee to submit to
8 the Board a complaint or information shall be
9 in addition to any other authority under an-
10 other provision of law to submit a complaint or
11 information. Any action taken under any other
12 provision of law by the recipient of a complaint
13 or information shall not preclude the Board
14 from taking action relating to the same com-
15 plaint or information.

16 “(D) RELATIONSHIP TO ACTIONS TAKEN
17 UNDER OTHER LAWS.—Nothing in this para-
18 graph shall prevent—

19 “(i) any individual from submitting a
20 complaint or information to any authorized
21 recipient of the complaint or information;
22 or

23 “(ii) the recipient of a complaint or
24 information from taking independent ac-

1 tion on the complaint or information.”;

2 and

3 (2) by adding at the end the following new sub-
4 section:

5 “(n) DEFINITIONS.—In this section, the terms ‘con-
6 gressional intelligence committees’ and ‘intelligence com-
7 munity’ have the meaning given such terms in section 3
8 of the National Security Act of 1947 (50 U.S.C. 3003).”.

9 **SEC. 4. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD**

10 **SUBPOENA POWER.**

11 Section 1061(g) of the Intelligence Reform and Ter-
12 rorism Prevention Act of 2004 (42 U.S.C. 2000ee(g)) is
13 amended—

14 (1) in paragraph (1)(D), by striking “submit a
15 written request to the Attorney General of the
16 United States that the Attorney General”;

17 (2) by striking paragraph (2); and

18 (3) by redesignating paragraphs (3) and (4) as
19 paragraphs (2) and (3), respectively.

20 **SEC. 5. APPOINTMENT OF STAFF OF THE PRIVACY AND**

21 **CIVIL LIBERTIES OVERSIGHT BOARD.**

22 Section 1061(j) of the Intelligence Reform and Ter-
23 rorism Prevention Act of 2004 (42 U.S.C. 2000ee(j)) is
24 amended—

1 (1) by redesignating paragraphs (2) and (3) as
 2 paragraphs (3) and (4), respectively; and

3 (2) by inserting after paragraph (1) the fol-
 4 lowing new paragraph:

5 “(2) APPOINTMENT IN ABSENCE OF CHAIR-
 6 MAN.—If the position of chairman of the Board is
 7 vacant, during the period of the vacancy the Board,
 8 at the direction of the majority of the members of
 9 the Board, may exercise the authority of the chair-
 10 man under paragraph (1).”.

11 **SEC. 6. TENURE AND COMPENSATION OF PRIVACY AND**
 12 **CIVIL LIBERTIES OVERSIGHT BOARD MEM-**
 13 **BERS AND STAFF.**

14 (a) IN GENERAL.—Section 1061 of the Intelligence
 15 Reform and Terrorism Prevention Act of 2004 (42 U.S.C.
 16 2000ee), as amended by sections 2 and 3, is further
 17 amended—

18 (1) in subsection (h)—

19 (A) in paragraph (1), by inserting “full-
 20 time” after “4 additional”; and

21 (B) in paragraph (4)(B), by striking “, ex-
 22 cept that” and all that follows through the end
 23 and inserting a period;

24 (2) in subsection (i)(1)—

1 (A) in subparagraph (A), by striking “level
 2 III of the Executive Schedule under section
 3 5314” and inserting “level II of the Executive
 4 Schedule under section 5313”; and

5 (B) in subparagraph (B), by striking “level
 6 IV of the Executive Schedule” and all that fol-
 7 lows through the end and inserting “level III of
 8 the Executive Schedule under section 5314 of
 9 title 5, United States Code.”; and

10 (3) in subsection (j)(1), by striking “level V of
 11 the Executive Schedule under section 5316” and in-
 12 serting “level IV of the Executive Schedule under
 13 section 5315”.

14 (b) EFFECTIVE DATE; APPLICABILITY.—

15 (1) IN GENERAL.—The amendments made by
 16 subsection (a) shall—

17 (A) take effect on the date of enactment of
 18 this Act; and

19 (B) except as provided in paragraph (2),
 20 apply to any appointment to a position as a
 21 member of the Privacy and Civil Liberties Over-
 22 sight Board made on or after the date of the
 23 enactment of this Act.

24 (2) EXCEPTIONS.—

1 (A) COMPENSATION CHANGES.—The
 2 amendments made by paragraphs (2)(A) and
 3 (3) of subsection (a) shall take effect on the
 4 first day of the first pay period beginning after
 5 the date of the enactment of this Act.

6 (B) ELECTION TO SERVE FULL TIME BY
 7 INCUMBENTS.—

8 (i) IN GENERAL.—An individual serv-
 9 ing as a member of the Privacy and Civil
 10 Liberties Oversight Board on the date of
 11 the enactment of this Act, including a
 12 member continuing to serve as a member
 13 under section 1061(h)(4)(B) of the Intel-
 14 ligence Reform and Terrorism Prevention
 15 Act of 2004 (42 U.S.C. 2000ee(h)(4)(B)),
 16 (in this subparagraph referred to as a
 17 “current member”) may make an election
 18 to—

19 (I) serve as a member of the Pri-
 20 vacy and Civil Liberties Oversight
 21 Board on a full-time basis and in ac-
 22 cordance with section 1061 of the In-
 23 telligence Reform and Terrorism Pre-
 24 vention Act of 2004 (42 U.S.C.
 25 2000ee), as amended by this Act; or

1 (II) serve as a member of the
2 Privacy and Civil Liberties Oversight
3 Board on a part-time basis in accord-
4 ance with such section 1061, as in ef-
5 fect on the day before the date of en-
6 actment of this Act, including the lim-
7 itation on service after the expiration
8 of the term of the member under sub-
9 section (h)(4)(B) of such section, as
10 in effect on the day before the date of
11 the enactment of this Act.

12 (ii) ELECTION TO SERVE FULL
13 TIME.—A current member making an elec-
14 tion under clause (i)(I) shall begin serving
15 as a member of the Privacy and Civil Lib-
16 erties Oversight Board on a full-time basis
17 on the first day of the first pay period be-
18 ginning not less than 60 days after the
19 date on which the current member makes
20 the election.

1 **SEC. 7. PROVISION OF INFORMATION ABOUT GOVERNMENT**
2 **ACTIVITIES UNDER THE FOREIGN INTEL-**
3 **LIGENCE SURVEILLANCE ACT OF 1978 TO THE**
4 **PRIVACY AND CIVIL LIBERTIES OVERSIGHT**
5 **BOARD.**

6 The Attorney General should fully inform the Privacy
7 and Civil Liberties Oversight Board about any activities
8 carried out by the Government under the Foreign Intel-
9 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.),
10 including by providing to the Board—

11 (1) copies of each detailed report submitted to
12 a committee of Congress under such Act; and

13 (2) copies of each decision, order, and opinion
14 of the Foreign Intelligence Surveillance Court or the
15 Foreign Intelligence Surveillance Court of Review re-
16 quired to be included in the report under section
17 601(a) of such Act (50 U.S.C. 1871(a)).

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