[118H237]

(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To repeal the Foreign Intelligence Surveillance Act.

IN THE HOUSE OF REPRESENTATIVES

Mr. BIGGS introduced the following bill; which was referred to the Committee on _____

A BILL

To repeal the Foreign Intelligence Surveillance Act.

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 "Fourth Amendment Restoration Act".

SEC. 2. REPEAL OF FOREIGN SURVEILLANCE AUTHORITIES.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is repealed.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(a) PEN REGISTER AND TRAP AND TRACE DEVICE.—The terms "pen register" and "trap and trace device" have the meanings given such terms in section 3127 of title 18, United States Code.

(b) UNITED STATES CITIZEN.—The term "United States citizen" means an individual who is a citizen of the United States.

(c) FOREIGN INTELLIGENCE INFORMATION.—The term "foreign intelligence information" means—

(1) information that relates to, and if concerning a United States citizen is necessary to, the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage, international terrorism, or the intentional proliferation of weapons of mass destruction by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to, and if concerning a United States citizen, is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(d) ELECTRONIC SURVEILLANCE.—The term "electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States citizen who is in the United States, if the contents are acquired by intentionally targeting that United States citizen, under circumstances in which a citizen has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes; or

(2) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a citizen has a reasonable ex-

pectation of privacy and a warrant would be required for law enforcement purposes.

(e) WIRE COMMUNICATION.—The term "wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

SEC. 4. PROHIBITIONS ON SURVEILLING UNITED STATES CITIZENS.

(a) An officer of the United States must obtain a warrant issued using the procedures described in the Federal Rules of Criminal Procedure by a Federal court in order to conduct or request—

(1) electronic surveillance of a United States citizen;

(2) a physical search of a premises, information, material, or property used exclusively by, or under the open and exclusive control of, a United States citizen;

(3) approval of the installation and use of a pen register or trap and trace device, a sole or significant purpose of which is to obtain foreign intelligence information concerning a United States citizen;

(4) the production of tangible things (including books, records, papers, documents, and other items) concerning a United States citizen to obtain foreign intelligence information; or

(5) the targeting of a United States citizen for the acquisition of foreign intelligence information.

(b) Any information concerning a United States citizen acquired under Executive Order 12333 (50 U.S.C. 3001 note; relating to United States intelligence activities) shall not be used in evidence against that United States citizen in any criminal, civil, or administrative proceeding or as part of any criminal, civil, or administrative investigation.

SEC. 5. LIMITATION ON USE OF INFORMATION CONCERNING UNITED STATES CITIZENS.

Any information concerning a United States citizen acquired during surveillance of a non-United States citizen shall not be used in evidence against that United States citizen in any criminal, civil, or administrative proceeding or as part of any criminal, civil, or administrative investigation.

SEC. 6. CRIMINAL SANCTIONS.

(a) A person is guilty of an offense if he intentionally—

(1) engages in any of the offenses described in section 4, except as authorized by this Act, title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of title 50; or

(2) discloses or uses information obtained under color of law by any of the methods described in section 4, paragraph (1), knowing or having reason to know that the information was obtained without authorization by this chapter, title 18, or any express statutory authorization that is an additional exclusive means for conducting electronic surveillance under section 1812 of title 50.

(b) It is a defense to prosecution under subsection (a) that the defendant was a law enforcement officer or investigative officer engaging in the course of his official duties and the conduct was authorized and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(c) An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not less than five years, or both.

(d) There is a Federal jurisdiction over an offense under this section if the person committing the offense

was an officer or employee of the United States at the time the offense was committed.