

109TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To provide sufficient resources to permit electronic surveillance of United States persons for foreign intelligence purposes to be conducted pursuant to individualized court-issued orders, to enhance oversight and streamline the procedures of the Foreign Intelligence Surveillance Act of 1978, to ensure review of the Terrorist Surveillance Program by the United States Supreme Court, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To provide sufficient resources to permit electronic surveillance of United States persons for foreign intelligence purposes to be conducted pursuant to individualized court-issued orders, to enhance oversight and streamline the procedures of the Foreign Intelligence Surveillance Act of 1978, to ensure review of the Terrorist Surveillance Program by the United States Supreme Court, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Foreign Intelligence  
3 Surveillance Oversight and Resource Enhancement Act of  
4 2006”.

5 **TITLE I—ENHANCEMENT OF RE-**  
6 **SOURCES AND PERSONNEL**  
7 **FOR ELECTRONIC SURVEIL-**  
8 **LANCE FOR FOREIGN INTEL-**  
9 **LIGENCE PURPOSES**

10 **SEC. 101. FOREIGN INTELLIGENCE SURVEILLANCE COURT**  
11 **MATTERS.**

12 (a) **AUTHORITY FOR ADDITIONAL JUDGES.**—Section  
13 103(a) of the Foreign Intelligence Surveillance Act of  
14 1978 (50 U.S.C. 1803(a)) is amended—

15 (1) by inserting “(1)” after “(a)”;

16 (2) in paragraph (1), as so designated, by in-  
17 serting “at least” before “seven of the United States  
18 judicial circuits”;

19 (3) by designating the second sentence as para-  
20 graph (4) and indenting such paragraph, as so des-  
21 ignated, accordingly; and

22 (4) by inserting after paragraph (1), as so des-  
23 ignated, the following new paragraph:

24 “(2) In addition to the judges designated under  
25 paragraph (1), the Chief Justice of the United  
26 States may designate as judges of the court estab-

1 lished by paragraph (1) such judges appointed under  
2 Article III of the Constitution of the United States  
3 as the Chief Justice determines appropriate in order  
4 to provide for the prompt and timely consideration  
5 under section 105 of applications under section 104  
6 for electronic surveillance under this title. Any judge  
7 designated under this paragraph shall be designated  
8 publicly.”.

9 (b) CONSIDERATION OF EMERGENCY APPLICA-  
10 TIONS.—Such section is further amended by inserting  
11 after paragraph (2), as added by subsection (a) of this  
12 section, the following new paragraph:

13 “(3) A judge of the court established by para-  
14 graph (1) shall make a determination to approve,  
15 deny, or seek modification of an application sub-  
16 mitted under section subsection (f) or (g) of section  
17 105 not later than 24 hours after the receipt of such  
18 application by the court.”.

19 **SEC. 102. ADDITIONAL PERSONNEL FOR PREPARATION**  
20 **AND CONSIDERATION OF APPLICATIONS FOR**  
21 **ORDERS APPROVING ELECTRONIC SURVEIL-**  
22 **LANCE.**

23 (a) OFFICE OF INTELLIGENCE POLICY AND RE-  
24 VIEW.—

1           (1) ADDITIONAL PERSONNEL.—The Office of  
2 Intelligence Policy and Review of the Department of  
3 Justice is authorized such additional personnel, in-  
4 cluding not fewer than 21 full-time attorneys, as  
5 may be necessary to carry out the prompt and time-  
6 ly preparation, modification, and review of applica-  
7 tions under section 104 of the Foreign Intelligence  
8 Surveillance Act of 1978 (50 U.S.C. 1804) for or-  
9 ders under section 105 of that Act (50 U.S.C. 1805)  
10 approving electronic surveillance for foreign intel-  
11 ligence purposes.

12           (2) ASSIGNMENT.—The Attorney General shall  
13 assign personnel authorized by paragraph (1) to and  
14 among appropriate offices of the National Security  
15 Agency in order that such personnel may directly as-  
16 sist personnel of the Agency in preparing applica-  
17 tions described in that paragraph.

18           (b) FEDERAL BUREAU OF INVESTIGATION.—

19           (1) ADDITIONAL LEGAL AND OTHER PER-  
20 SONNEL.—The National Security Branch of the  
21 Federal Bureau of Investigation is authorized such  
22 additional legal and other personnel as may be nec-  
23 essary to carry out the prompt and timely prepara-  
24 tion of applications under section 104 of the Foreign  
25 Intelligence Surveillance Act of 1978 for orders

1 under section 105 of that Act approving electronic  
2 surveillance for foreign intelligence purposes.

3 (2) ASSIGNMENT.—The Director of the Federal  
4 Bureau of Investigation shall assign personnel au-  
5 thORIZED by paragraph (1) to and among the field of-  
6 fices of the Federal Bureau of Investigation in order  
7 that such personnel may directly assist personnel of  
8 the Bureau in such field offices in preparing applica-  
9 tions described in that paragraph.

10 (c) ADDITIONAL LEGAL AND OTHER PERSONNEL  
11 FOR NATIONAL SECURITY AGENCY.—The National Secu-  
12 rity Agency is authorized such additional legal and other  
13 personnel as may be necessary to carry out the prompt  
14 and timely preparation of applications under section 104  
15 of the Foreign Intelligence Surveillance Act of 1978 for  
16 orders under section 105 of that Act approving electronic  
17 surveillance for foreign intelligence purposes.

18 (d) ADDITIONAL LEGAL AND OTHER PERSONNEL  
19 FOR FOREIGN INTELLIGENCE SURVEILLANCE COURT.—  
20 There is authorized for the Foreign Intelligence Surveil-  
21 lance Court such additional personnel (other than judges)  
22 as may be necessary to facilitate the prompt and timely  
23 consideration by that Court of applications under section  
24 104 of the Foreign Intelligence Surveillance Act of 1978  
25 for orders under section 105 of that Act approving elec-

1 tronic surveillance for foreign intelligence purposes. Per-  
2 sonnel authorized by this paragraph shall perform such  
3 duties relating to the consideration of such applications  
4 as that Court shall direct.

5 (e) SUPPLEMENT NOT SUPPLANT.—The personnel  
6 authorized by this section are in addition to any other per-  
7 sonnel authorized by law.

8 **SEC. 103. TRAINING OF FEDERAL BUREAU OF INVESTIGA-**  
9 **TION AND NATIONAL SECURITY AGENCY PER-**  
10 **SONNEL IN FOREIGN INTELLIGENCE SUR-**  
11 **VEILLANCE MATTERS.**

12 The Director of the Federal Bureau of Investigation  
13 and the Director of the National Security Agency shall  
14 each, in consultation with the Attorney General—

15 (1) develop regulations establishing procedures  
16 for conducting and seeking approval of electronic  
17 surveillance on an emergency basis, and for pre-  
18 paring and properly submitting and receiving appli-  
19 cations and orders, under sections 104 and 105 of  
20 the Foreign Intelligence Surveillance Act of 1978  
21 (50 U.S.C. 1804 and 1805); and

22 (2) prescribe related training for the personnel  
23 of the applicable agency.

1 **TITLE II—IMPROVEMENT OF**  
2 **FOREIGN INTELLIGENCE**  
3 **SURVEILLANCE AUTHORITY**

4 **SEC. 201. EXTENSION OF PERIOD FOR APPLICATIONS FOR**  
5 **ORDERS FOR EMERGENCY ELECTRONIC SUR-**  
6 **VEILLANCE.**

7 Section 105(f) of the Foreign Intelligence Surveil-  
8 lance Act of 1978 (50 U.S.C. 1805(f)) is amended by  
9 striking “72 hours” both places it appears and inserting  
10 “168 hours”.

11 **SEC. 202. ACQUISITION OF FOREIGN-FOREIGN COMMU-**  
12 **NICATIONS.**

13 (a) **IN GENERAL.**—Notwithstanding any other provi-  
14 sion of this Act or the Foreign Intelligence Surveillance  
15 Act of 1978 (50 U.S.C. 1801 et seq.), no court order shall  
16 be required for the acquisition through electronic surveil-  
17 lance of the contents of any communication between one  
18 person who is not located within the United States and  
19 another person who is not located within the United States  
20 for the purpose of collecting foreign intelligence informa-  
21 tion even if such communication passes through, or the  
22 surveillance device is located within, the United States.

23 (b) **TREATMENT OF INTERCEPTED COMMUNICATIONS**  
24 **INVOLVING DOMESTIC PARTY.**—If surveillance conducted,  
25 as described in subsection (a), inadvertently collects a

1 communication in which at least one party is within the  
2 United States, the contents of such communications shall  
3 be handled in accordance with the minimization proce-  
4 dures set forth in section 101(h)(4) of the Foreign Intel-  
5 ligence Surveillance Act of 1978 (50 U.S.C. 1801(h)(4)).

6 (c) DEFINITIONS.—In this section, the terms “con-  
7 tents”, “electronic surveillance”, and “foreign intelligence  
8 information” have the meaning given such terms in sec-  
9 tion 101 of the Foreign Intelligence Surveillance Act of  
10 1978 (50 U.S.C. 1801).

11 **TITLE III—ENHANCED CONGRES-**  
12 **SIONAL OVERSIGHT AND SU-**  
13 **PREME COURT REVIEW OF**  
14 **THE TERRORIST SURVEIL-**  
15 **LANCE PROGRAM**

16 **SEC. 301. CONGRESSIONAL OVERSIGHT.**

17 (a) ELECTRONIC SURVEILLANCE UNDER FISA.—  
18 Section 108 of the Foreign Intelligence Surveillance Act  
19 of 1978 (50 U.S.C. 1808) is amended—

20 (1) in subsection (a)(2)—

21 (A) in subparagraph (B), by striking  
22 “and” at the end;

23 (B) in subparagraph (C), by striking the  
24 period and inserting “; and”; and

25 (C) by adding at the end the following:





1           “(d) INFORMING OF COMMITTEE MEMBERS.—The  
2 Chair of each of the congressional intelligence committees,  
3 in consultation with the ranking member of the committee  
4 for which the person is Chair, may inform, on a bipartisan  
5 basis, all members or any individual members of such com-  
6 mittee of a report submitted under subsection (a) as such  
7 Chair considers necessary.”.

8       **SEC. 302. SUPREME COURT REVIEW OF THE TERRORIST**  
9                               **SURVEILLANCE PROGRAM.**

10           (a) IN GENERAL.—Upon appeal by the United States  
11 or any party to the underlying proceedings, the Supreme  
12 Court of the United States shall review the final decision  
13 of any United States court of appeal concerning the legal-  
14 ity of the Terrorist Surveillance Program.

15           (b) EXPEDITED CONSIDERATION.—It shall be the  
16 duty of the Supreme Court of the United States to ad-  
17 vance on the docket and to expedite to the greatest pos-  
18 sible extent the disposition of any matter brought under  
19 subsection (a).

20           (c) DEFINITION.—In this section, the term “Ter-  
21 rorist Surveillance Program” means the program identi-  
22 fied by the President of the United States on December  
23 17, 2005, to intercept international communications into  
24 and out of the United States of persons linked to al Qaeda  
25 or related terrorist organizations.

1       **TITLE IV—OTHER MATTERS**

2       **SEC. 401. DEFINITION.**

3           In this Act, the term “Foreign Intelligence Surveil-  
4 lance Court” means the court established by section  
5 103(a) of the Foreign Intelligence Surveillance Act of  
6 1978 (50 U.S.C. 1803(a)).

7       **SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

8           There is authorized to be appropriated such sums as  
9 may be necessary to carry out this Act and the amend-  
10 ments made by this Act.

11       **SEC. 403. EFFECTIVE DATE.**

12           This Act, and the amendments made by this Act,  
13 shall take effect on the date that is 30 days after the date  
14 of the enactment of this Act.