

S 2453

National Security Surveillance Act of 2006

Congress: 109 (2005–2007, Ended)

Chamber: Senate

Policy Area: Crime and Law Enforcement

Introduced: Mar 16, 2006

Current Status: Placed on Senate Legislative Calendar under General Orders. Calendar No. 609.

Latest Action: Placed on Senate Legislative Calendar under General Orders. Calendar No. 609. (Sep 13, 2006)

Official Text: <https://www.congress.gov/bill/109th-congress/senate-bill/2453>

Sponsor

Name: Sen. Specter, Arlen [R-PA]

Party: Republican • State: PA • Chamber: Senate

Cosponsors (1 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Hagel, Chuck [R-NE]	R · NE		May 1, 2006

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Reported By	Sep 13, 2006

Subjects & Policy Tags

Policy Area:

Crime and Law Enforcement

Related Bills

Bill	Relationship	Last Action
109 S 3929	Related bill	Sep 25, 2006: Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 633.
109 S 3886	Related bill	Sep 14, 2006: Sponsor introductory remarks on measure. (CR S9577-9578)
109 S 3876	Related bill	Sep 8, 2006: Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 599.

National Security Surveillance Act of 2006 - (Sec. 4) Amends the Foreign Intelligence Surveillance Act of 1978 (FISA) to establish a new title relating to electronic surveillance. Gives the Foreign Intelligence Surveillance Court (Court) (established under FISA) jurisdiction to issue an order, lasting no longer than 90 days, that authorizes an electronic surveillance program as defined by such title (program) to obtain foreign intelligence information or to protect against international terrorism. Allows the Court to reauthorize a program for a period of time it determines reasonable. Allows the Attorney General (AG) to submit a new application if the Court refuses to approve an application for a program. Prohibits limiting the number of times the AG may seek approval of an electronic surveillance program. Permits the AG to appeal the decision of the Foreign Intelligence Surveillance Court to the Foreign Intelligence Surveillance Court of Review. Requires an originating court of review, under specified circumstances, to transfer to the Foreign Intelligence Court of Review certain cases which the AG alleges that further review in the originating court would harm U.S. national security. Subjects decisions of the Foreign Intelligence Court of Review to certiorari review in the U.S. Supreme Court.

(Sec. 5) Outlines requirements for each application for approval of a program, including that the application: (1) be made by the AG or his designee; (2) set forth the legal basis for the conclusion by the AG that the electronic surveillance program is consistent with the Constitution; (3) certify that a significant purpose of the program is to gather foreign intelligence information or to protect against international terrorism; (4) state the means and procedures by which the electronic tracking will be executed; and (5) state proposed minimization procedures (procedures to minimize interruption of normal communications service and to protect the confidentiality of information obtained).

(Sec. 6) Requires the Court to enter an ex parte order approving the application for a program if it finds that: (1) the President has authorized the AG to make the application; (2) program approval is consistent with the U.S. Constitution; (3) the program is intercepting communications of or with a foreign power engaged in international terrorism, an agent of such a foreign power, or a person believed to be in communication or associated with such a foreign power or agent; (4) proposed minimization procedures meet FISA requirements; and (5) the application contains all other required statements and certifications. Provides elements to be considered by the Court in determining the constitutionality of a program.

(Sec. 7) Requires the AG to report to the congressional intelligence committees at least every 180 days on activities under authorized programs.

(Sec. 8) Prohibits any provision of this Act from being construed to limit the constitutional authority of the President to collect intelligence with respect to foreign powers and agents thereof.

Repeals FISA provisions permitting electronic surveillance, physical searches, and the use of a pen register or trap by the President following a declaration of war for up to 15 days without a court order.

(Sec. 9) Revises FISA provisions concerning: (1) the definition of electronic surveillance; (2) the conduct of such surveillance without a court order for periods of up to one year upon the AG making certain certifications; (3) the designation of judges; (4) applications for court orders; (5) the issuance of orders; (6) the use of information; (7) congressional oversight; and (8) penalties. Defines the term "physical search."

Authorizes the AG to deliver to a provider of communications service, landlord, custodian, or other person with access to electronic communications a certificate requiring the person to furnish any information, facilities, or technical assistance to an official authorized by the President to engage in electronic surveillance for foreign intelligence purposes, for periods

of up to one year if the AG certifies in writing to the carrier that the provision of such information, facilities, or technical assistance does not constitute electronic surveillance as defined under FISA.

States that electronic surveillance directed solely at the collection of international radio communications of diplomatically immune persons in the United States may be authorized by an official designated by the President in accordance with procedures approved by the AG.

Allows an order to approve the emergency employment of electronic surveillance for a period not to exceed one year, with an authorized one-year extension. Requires an application for an emergency order to be made to the Court or another judge having jurisdiction within seven days (currently, 72 hours) after the surveillance is authorized.

Requires the AG and Director of National Intelligence to conduct a feasibility study to develop and implement a secure, classified document management system for the preparation, modification, and review of applications for orders approving electronic surveillance.

Actions Timeline

- **Sep 13, 2006:** Committee on the Judiciary. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Sep 13, 2006:** Committee on the Judiciary. Reported by Senator Specter with an amendment in the nature of a substitute. Without written report.
- **Sep 13, 2006:** Committee on the Judiciary. Reported by Senator Specter with an amendment in the nature of a substitute. Without written report.
- **Sep 13, 2006:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 609.
- **Sep 7, 2006:** Committee on the Judiciary. Committee consideration and Mark Up Session held.
- **Aug 3, 2006:** Committee on the Judiciary. Committee consideration and Mark Up Session held.
- **Aug 2, 2006:** Committee on the Judiciary. Hearings held.
- **Jul 26, 2006:** Committee on the Judiciary. Hearings held.
- **Apr 27, 2006:** Committee on the Judiciary. Committee consideration and Mark Up Session held.
- **Mar 16, 2006:** Introduced in Senate
- **Mar 16, 2006:** Sponsor introductory remarks on measure. (CR S2340-2341)
- **Mar 16, 2006:** Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S2341-2376)