

S 876

A bill to provide for the substitution of the United States in certain civil actions relating to electronic service providers and FISA.

Congress: 111 (2009–2011, Ended)

Chamber: Senate

Policy Area: Law

Introduced: Apr 23, 2009

Current Status: Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S4678-

Latest Action: Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S4678-4679) (Apr 23, 2009)

Official Text: <https://www.congress.gov/bill/111th-congress/senate-bill/876>

Sponsor

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

Party: Republican • **State:** PA • **Chamber:** Senate

Cosponsors (1 total)

Cosponsor	Party / State	Role	Date Joined
Sen. Whitehouse, Sheldon [D-RI]	D · RI		Apr 23, 2009

Committee Activity

Committee	Chamber	Activity	Date
Judiciary Committee	Senate	Referred To	Apr 23, 2009

Subjects & Policy Tags

Policy Area:

Law

Related Bills

No related bills are listed.

Amends the Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008 to require a federal or state court to substitute the United States for an electronic communication service provider with respect to any claim in a covered civil action if the Attorney General certifies to the court that either: (1) the service provider did not provide the alleged assistance; or (2) the assistance alleged to have been provided was in connection with an intelligence activity involving communications authorized by the President between September 11, 2001, and January 17, 2007, and designed to detect or prevent a terrorist attack, or activities in preparation for a terrorist attack, against the United States. Requires the alleged provider assistance to be described in a written request or directive from the Attorney General or the head of an element of the intelligence community to the electronic communication service provider indicating that the activity was authorized by the President and determined to be lawful.

Requires a federal or state court, upon receiving such a certification, to: (1) substitute the United States for the electronic communication service provider as the defendant as to all claims designated by the Attorney General in the certification; (2) dismiss all such designated claims against the provider; and (3) enter a final judgment relating to those claims.

Provides that the electronic communication service provider shall remain as a defendant if the Attorney General's certification states that not all of the alleged assistance was provided under a written request or directive.

Allows substitution only after a determination by the Foreign Intelligence Surveillance Court (after certification by the Attorney General) that the directive requesting provider assistance was lawful and that the assistance was provided in good faith of the lawfulness of the directive.

Provides that, in a covered civil action in which the United States is substituted as a party-defendant, any plaintiff may serve third-party discovery requests to any electronic communications service provider as to which all claims are dismissed.

Actions Timeline

- **Apr 23, 2009:** Introduced in Senate
- **Apr 23, 2009:** Sponsor introductory remarks on measure. (CR S4678)
- **Apr 23, 2009:** Read twice and referred to the Committee on the Judiciary. (text of measure as introduced: CR S4678-4679)