

#### 116TH CONGRESS 2D SESSION

# H. R. 6804

To repeal the Foreign Intelligence Surveillance Act.

#### IN THE HOUSE OF REPRESENTATIVES

May 12, 2020

Mr. BIGGS introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Permanent Select Committee on Intelligence, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

## A BILL

To repeal the Foreign Intelligence Surveillance Act.

- 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 TITLE.
- 4 This Act may be cited as the "Fourth Amendment
- 5 Restoration Act".
- 6 SEC. 2. REPEAL OF FOREIGN SURVEILLANCE AUTHORI-
- 7 **TIES.**
- 8 Strike "50 U.S.C. Chapter 36—Foreign Intelligence
- 9 Surveillance".

### 1 SEC. 3. DEFINITIONS.

2	For the purposes of this Act—
3	(a) Pen Register and Trap and Trace De-
4	VICE.—The terms "pen register" and "trap and trace de-
5	vice" have the meanings given such terms in section 3127
6	of title 18, United States Code.
7	(b) United States Citizen.—The term "United
8	States citizen" means an individual who is a citizen of the
9	United States.
10	(c) Foreign Intelligence Information.—The
11	term "foreign intelligence information" means—
12	(1) information that relates to, and if con-
13	cerning a United States citizen is necessary to, the
14	ability of the United States to protect against—
15	(A) actual or potential attack or other
16	grave hostile acts of a foreign power or an
17	agent of a foreign power;
18	(B) sabotage, international terrorism, or
19	the intentional proliferation of weapons of mass
20	destruction by a foreign power or an agent of
21	a foreign power; or
22	(C) clandestine intelligence activities by an
23	intelligence service or network of a foreign
24	power or by an agent of a foreign power; or

1	(2) information with respect to a foreign power
2	or foreign territory that relates to, and if concerning
3	a United States citizen, is necessary to—
4	(A) the national defense or the security of
5	the United States; or
6	(B) the conduct of the foreign affairs of
7	the United States.
8	(d) Electronic Surveillance.—The term "elec-
9	tronic surveillance" means—
10	(1) the acquisition by an electronic, mechanical,
11	or other surveillance device of the contents of any
12	wire or radio communication sent by or intended to
13	be received by a particular, known United States cit-
14	izen who is in the United States, if the contents are
15	acquired by intentionally targeting that United
16	States citizen, under circumstances in which a cit-
17	izen has a reasonable expectation of privacy and a
18	warrant would be required for law enforcement pur-
19	poses; or
20	(2) the installation or use of an electronic, me-
21	chanical, or other surveillance device in the United
22	States for monitoring to acquire information, other
23	than from a wire or radio communication, under cir-

cumstances in which a citizen has a reasonable ex-

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1	pectation of privacy and a warrant would be re-
2	quired for law enforcement purposes.
3	(e) WIRE COMMUNICATION.—The term "wire com-
4	munication" means any communication while it is being
5	carried by a wire, cable, or other like connection furnished
6	or operated by any person engaged as a common carrier
7	in providing or operating such facilities for the trans-
8	mission of interstate or foreign communications.
9	SEC. 4. PROHIBITIONS ON SURVEILLING UNITED STATES
10	CITIZENS.
11	(a) An officer of the United States must obtain a
12	warrant issued using the procedures described in the Fed-
13	eral Rules of Criminal Procedure by a Federal court in
14	order to conduct or request—
15	(1) electronic surveillance of a United States
16	citizen;
17	(2) a physical search of a premises, informa-
18	tion, material, or property used exclusively by, or
19	under the open and exclusive control of, a United
20	States citizen;
21	(3) approval of the installation and use of a pen
22	register or trap and trace device, a sole or signifi-
23	cant purpose of which is to obtain foreign intel-
24	ligence information concerning a United States cit-
25	izen;

- (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 (5) the targeting of a United States citizen for 6 the acquisition of foreign intelligence information.
- 7 (b) Any information concerning a United States cit-
- 8 izen acquired under Executive Order 12333 (50 U.S.C.
- 9 3001 note; relating to United States intelligence activities)
- 10 shall not be used in evidence against that United States
- 11 citizen in any criminal, civil, or administrative proceeding
- 12 or as part of any criminal, civil, or administrative inves-
- 13 tigation.
- 14 SEC. 5. LIMITATION ON USE OF INFORMATION CON-
- 15 CERNING UNITED STATES CITIZENS.
- Any information concerning a United States citizen
- 17 acquired during surveillance of a non-United States citizen
- 18 shall not be used in evidence against that United States
- 19 citizen in any criminal, civil, or administrative proceeding
- 20 or as part of any criminal, civil, or administrative inves-
- 21 tigation.
- 22 SEC. 6. CRIMINAL SANCTIONS.
- (a) A person is guilty of an offense if he inten-
- 24 tionally—

- 1 (1) engages in any of the offenses described in 2 section 4, except as authorized by this Act, title 18, 3 or any express statutory authorization that is an ad-
- 4 ditional exclusive means for conducting electronic
- 5 surveillance under section 1812 of title 50; or
- 6 (2) discloses or uses information obtained under 7 color of law by any of the methods described in sec-8 tion 4, paragraph (1), knowing or having reason to 9 know that the information was obtained without au-10 thorization by this chapter, title 18, or any express 11 statutory authorization that is an additional exclu-12 sive means for conducting electronic surveillance
- 14 (b) It is a defense to prosecution under subsection

under section 1812 of title 50.

- 15 (a) that the defendant was a law enforcement officer or
- 16 investigative officer engaging in the course of his official
- 17 duties and the conduct was authorized and conducted pur-
- 18 suant to a search warrant or court order of a court of
- 19 competent jurisdiction.

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- (c) An offense described in this section is punishable
- 21 by a fine of not more than \$10,000 or imprisonment for
- 22 not less than five years, or both.
- 23 (d) There is a Federal jurisdiction over an offense
- 24 under this section if the person committing the offense

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

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