

AMENDMENT NO.

Calendar No.

Purpose: To amend the Foreign Intelligence Surveillance Act of 1978 to enhance wartime authorities.

IN THE SENATE OF THE UNITED STATES—110th Cong., 2d Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by

Viz:

1 At the end of title I, add the following:

2 **SEC. . ENHANCEMENT OF WARTIME AUTHORITIES**

3 **UNDER THE FOREIGN INTELLIGENCE SUR-**

4 **VEILLANCE ACT OF 1978.**

5 Sections 111, 309, and 404 of the Foreign Intel-
6 ligence Surveillance Act of 1978 (50 U.S.C. 1811, 1829,
7 1844) are each amended—

8 (1) by striking “fifteen calendar days” and in-

9 sserting “30 calendar days”; and

1 (2) by striking “following a declaration of war
2 by the Congress” and inserting “following either of
3 the following:

4 “(1) A declaration of war by the Congress.

5 “(2) The enactment of an Act specifically au-
6 thorizing the President to introduce the Armed
7 Forces into hostilities within the meaning of section
8 2(c)(2) of the War Powers Resolution (50 U.S.C.
9 1541(c)(2)).”.

10 **SEC. . REPORT ON EXERCISE DURING TIME OF WAR OF**
11 **EMERGENCY SURVEILLANCE AUTHORITIES**
12 **UNDER THE FOREIGN INTELLIGENCE SUR-**
13 **VEILLANCE ACT OF 1978.**

14 (a) **ELECTRONIC SURVEILLANCE.**—Section 111 of
15 the Foreign Intelligence Surveillance Act of 1978 (50
16 U.S.C. 1811) is amended—

17 (1) by inserting “(a) **IN GENERAL.**—” before
18 “Notwithstanding”; and

19 (2) by adding at the end the following new sub-
20 section:

21 “(b) **REPORTS ON USE OF AUTHORITY.**—(1) If the
22 President determines to exercise the authority in sub-
23 section (a), the President shall, not later than 48 hours
24 after making such determination, submit to the Foreign
25 Intelligence Surveillance Court and to the congressional

1 intelligence committees a written report, setting forth the
2 circumstances necessitating the use of such authority.

3 “(2) Not later than 30 days after the end of the pe-
4 riod specified in subsection (a) for exercise of the authority
5 in that subsection, the President shall submit to the For-
6 eign Intelligence Surveillance Court and to the congres-
7 sional intelligence committees a written report describing
8 the exercise of such authority during such period.

9 “(3) In this subsection:

10 “(A) The term ‘Foreign Intelligence Surveil-
11 lance Court’ means the court established by section
12 103(a) of this Act.

13 “(B) The term ‘congressional intelligence com-
14 mittees’ means—

15 “(i) the Select Committee on Intelligence
16 of the Senate; and

17 “(ii) the Permanent Select Committee on
18 Intelligence of the House of Representatives”.

19 (b) PHYSICAL SEARCHES.—Section 309 of such Act
20 (50 U.S.C. 1829) is amended—

21 (1) by inserting “(a) IN GENERAL.—” before
22 “Notwithstanding”; and

23 (2) by adding at the end the following new sub-
24 section:

1 “(b) REPORTS ON USE OF AUTHORITY.—(1) If the
2 President determines to exercise the authority in sub-
3 section (a), the President shall, not later than 48 hours
4 after making such determination, submit to the Foreign
5 Intelligence Surveillance Court and to the congressional
6 intelligence committees a written report, setting forth the
7 circumstances necessitating the use of such authority.

8 “(2) Not later than 30 days after the end of the pe-
9 riod specified in subsection (a) for exercise of the authority
10 in that subsection, the President shall submit to the For-
11 eign Intelligence Surveillance Court and to the congres-
12 sional intelligence committees a written report describing
13 the exercise of such authority during such period.

14 “(3) In this subsection, the term ‘congressional intel-
15 ligence committees’ means—

16 “(A) the Select Committee on Intelligence of
17 the Senate; and

18 “(B) the Permanent Select Committee on Intel-
19 ligence of the House of Representatives”.

20 (c) PEN REGISTERS AND TRAP AND TRACE DE-
21 VICES.—Section 404 of such Act (50 U.S.C. 1844) is
22 amended—

23 (1) by inserting “(a) IN GENERAL.—” before
24 “Notwithstanding”; and

1 (2) by adding at the end the following new sub-
2 section:

3 “(b) REPORTS ON USE OF AUTHORITY.—(1) If the
4 President determines to exercise the authority in sub-
5 section (a), the President shall, not later than 48 hours
6 after making such determination, submit to the Foreign
7 Intelligence Surveillance Court and to the congressional
8 intelligence committees a written report, setting forth the
9 circumstances necessitating the use of such authority.

10 “(2) Not later than 30 days after the end of the pe-
11 riod specified in subsection (a) for exercise of the authority
12 in that subsection, the President shall submit to the to
13 the Foreign Intelligence Surveillance Court and to the con-
14 gressional intelligence committees a written report de-
15 scribing the exercise of such authority during such period.

16 “(3) In this subsection:

17 “(A) The term ‘Foreign Intelligence Surveil-
18 lance Court’ means the court established by section
19 103(a) of this Act.

20 “(B) The term ‘congressional intelligence com-
21 mittees’ means—

22 “(i) the Select Committee on Intelligence
23 of the Senate; and

24 “(ii) the Permanent Select Committee on
25 Intelligence of the House of Representatives”.