

S.1566

Public Law: 95-511 (10/25/78)

SPONSOR: [Sen Kennedy](#) (introduced 5/18/77)

SUMMARY AS OF:

(REVISED AS OF 10/05/78 -- Conference report filed in House, H. Rept. 95-1720)

Foreign Intelligence Surveillance Act - **Title I: Electronic Surveillance within the United States for Foreign Intelligence Purposes** - Permits the President, acting through the Attorney General, to authorize electronic surveillances for foreign intelligence purposes without a court order in certain circumstances. Requires the Attorney General: (1) to certify that the minimization procedures governing these surveillances meet certain standards; and (2) to forward such procedures to the House and Senate intelligence committees at least 30 days prior to their going into effect. Provides for the Attorney General to direct a specified common carrier to render assistance. Directs the Attorney General to transmit a copy of the certification for electronic surveillance to the appropriate court where it is to be maintained under security measures and remain seal, except in certain circumstances.

Requires the Chief Justice of the United States to designate seven district court judges, who shall constitute a special court, each of whom shall have jurisdiction to hear applications for and grant orders approving electronic surveillance anywhere within the United States. Requires the Chief Justice to designate three Federal judges to comprise a special court of appeals which shall have jurisdiction to hear an appeal by the United States from the denial of any application. Grants the United States a further right to appeal an affirmance of denial to the Supreme Court. Provides that such judges shall serve for a maximum of seven years and shall not be eligible for redesignation.

Requires each application for any order approving electronic surveillance for foreign intelligence purposes to be approved by the Attorney General and to include among other information: (1) the identity of the officer making the application; (2) the authority conferred on the Attorney General by the President and the approval of the Attorney General to make the application; (3) the identity, if known, of the subject of the surveillance; (4) the fact and circumstances justifying belief that the target of surveillance is a foreign power or an agent of a foreign power; (5) a description of the type of information sought and a certification by one of specified Federal officers that such official deems the information sought to be foreign intelligence information, and information which cannot feasibly be obtained by normal investigative techniques; (6) a statement of the period of time for which the surveillance is required; and (7) a statement of procedures to be taken to minimize intrusion into the privacy of United States persons.

Directs the judge to enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that the criteria specified have been met. Allows issuance of orders to approve surveillance for 90 days or the period necessary to achieve its purposes, whichever is less. Permits extensions of orders upon application for an extension made in the same manner as required for an original application.

Authorizes the Attorney General, upon a reasonable determination that an emergency situation exists, to authorize the emergency employment of electronic surveillance if the appropriate judge is informed by the Attorney General of such authorization at the time it is made and if an application is made as soon as practicable but not more than 24 hours after authorization.

Requires, in the absence of a judicial order, that surveillance terminate when the information sought is obtained, when the application for an order is denied, or 24 hours after authorization,

whichever is earliest. Directs the Attorney General to retain applications and orders for electronic surveillance for at least ten years.

Prohibits the use or disclosure of any information concerning any United States person acquired from a disapproved emergency surveillance in any manner by Federal officers or employees without the consent of such person. Allows the Government to use such information to protect the life or the physical safety of a person, upon the approval of the Attorney General.

Authorizes electronic surveillance, not targeted against the communications of any particular person, by officers, employees, or agents of the United States in the normal course of their official duties. Specifies that such electronic surveillance shall be solely to: (1) test the capability of electronic equipment; (2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct such surveillance; and (3) train intelligence personnel.

Allows information acquired from electronic surveillance conducted pursuant to this Act to be used and disclosed only for designated purposes or for the enforcement of the criminal law.

Provides for motions to suppress evidence obtained or derived from electronic surveillance. Sets forth the procedure for determining the legality of electronic surveillance.

Requires the Attorney General to submit an annual report to the Administrative Office of the United States Courts and to Congress, including the number of applications made for orders and extensions of orders approving electronic surveillance and the number of such orders and extensions granted, modified, and denied.

Requires the Attorney General to inform the House and Senate Committees on Intelligence semiannually concerning all electronic surveillance under this Title.

Requires the Committees to report annually for five years to the House and Senate concerning the implementation of this Act, with recommendations.

Makes it a criminal offense for officers or employees of the United States to intentionally engage in electronic surveillance under color of law except as specifically authorized or to disclose information through unlawful electronic surveillance. Imposes civil and criminal liability for such violations and authorizes the recovery of actual damages, punitive damages, and reasonable attorney's fees by an aggrieved person other than a foreign power.

Permits the President, through the Attorney General, to authorize electronic surveillance without a court order to acquire foreign intelligence information for up to 15 days during a Congressionally declared war.

Title II: Conforming Amendments - Makes conforming amendments to existing criminal laws.

Title III: Effective Date - States that the provisions of this Act shall become effective upon enactment. Stipulates that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be unlawful if that surveillance is terminated or an order approving that surveillance is obtained within 90 days following the designation of the chief judges pursuant to this Act.