

# Calendar No. 502

103D CONGRESS  
2D SESSION

# S. 2056

[Report No. 103-296]

To amend the National Security Act of 1947 to improve the counterintelligence and security posture of the United States, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 2, 1994

Mr. DECONCINI (for himself and Mr. WARNER) (by request) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

JUNE 30 (legislative day, JUNE 7), 1994

Reported by Mr. DECONCINI, with amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To amend the National Security Act of 1947 to improve the counterintelligence and security posture of the United States, and for other purposes.

1       *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Counterintelligence  
5 and Security Enhancements Act of 1994”.

1   **SEC. 2. AMENDMENT TO THE NATIONAL SECURITY ACT OF**2                   **1947.**

3         The National Security Act of 1947 (50 U.S.C. 401  
4 et seq.) is amended by inserting at the end thereof the  
5 following new title:

6                   **"TITLE VIII—ACCESS TO CLASSIFIED  
7                   INFORMATION**

8         "SEC. 801. The provisions of this title shall not apply  
9 to the President and Vice President, Members of the Con-  
10 gress, Justices of the Supreme Court, and Federal judges  
11 appointed by the President.

12        "SEC. 802. The President shall, within one hundred  
13 and eighty days of enactment of this title, direct the issu-  
14 ance of a regulation to govern access to classified informa-  
15 tion which shall be binding upon all departments, agen-  
16 cies, and offices of the executive branch.

17        "SEC. 803. Except as may be provided for in the reg-  
18 ulation issued under section 802 of this title, no person  
19 shall be given access to classified information, after the  
20 effective date of this title, by any department, agency, or  
21 office of the executive branch unless, based upon an appro-  
22 priate background investigation, such access is determined  
23 to be clearly consistent with the interests of national secu-  
24 rity.

1       “REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES

2           “SEC. 804. (a)(1) Any authorized investigative agen-  
3       cy may request from any financial agency, financial insti-  
4       tution, or holding company, as defined in section 5312 of  
5       the Currency and Foreign Transactions Reporting Act (31  
6       U.S.C. 5312, as amended) or section 1101 of the Right  
7       to Financial Privacy Act of 1978 (12 U.S.C. 3401), or  
8       from any consumer credit reporting agency, as defined in  
9       section 603 of the Consumer Credit Protection Act (15  
10      U.S.C. 1681a), such financial records, other financial in-  
11      formation, and consumer reports as are necessary in order  
12      to conduct any authorized law enforcement investigation,  
13      counterintelligence inquiry, or security determination. Any  
14      authorized investigative agency may also request records  
15      maintained by any commercial entity within the United  
16      States pertaining to travel by a person outside the United  
17      States.

18           “(2) Requests may be made under this section

19      where—

20           “(A) the records sought pertain to a person  
21      who is or was an employee required by the President  
22      in an Executive order, as a condition of access to  
23      classified information, to provide consent, during a  
24      background investigation and for such time as ac-  
25      cess to the information is maintained, and for not

1 more than 5 years thereafter, permitting access to  
2 financial records, other financial information,  
3 consumer reports, and travel records; and

4 “(B) there is information or allegations indicat-  
5 ing that the person is, or may be, disclosing classi-  
6 fied information in an unauthorized manner to a for-  
7 eign power or agent of a foreign power, or an issue  
8 of otherwise unexplained affluence or excessive in-  
9 debt edness arises in the course of any background  
10 investigation or reinvestigation.

11 “(3) Each such request—

12 “(A) shall be accompanied by a written certifi-  
13 cation signed by the department or agency head or  
14 deputy department or agency head concerned and  
15 shall certify that—

16 “(i) the person concerned is or was an em-  
17 ployee within the meaning of subparagraph  
18 (2)(A) above;

19 “(ii) the request is being made pursuant to  
20 an authorized inquiry or investigation and is  
21 authorized under this section; and

22 “(iii) the records or information to be re-  
23 viewed are records or information which the  
24 employee has previously agreed to make avail-

1           able to the authorized investigative agency for  
2           review;

3           “(B) shall contain a copy of the agreement re-  
4           ferred to in subparagraph (A)(iii);

5           “(C) shall identify specifically or by category  
6           the records or information to be reviewed; and

7           “(D) shall inform the recipient of the request of  
8           the prohibition described in subsection (b).

9           “(b) Notwithstanding any other provision of law, no  
10           governmental or private entity, or officer, employee, or  
11           agent of such entity, may disclose to any person, other  
12           than those officers, employees, or agents of such entity  
13           necessary to satisfy a request made under this section,  
14           that such entity has received or satisfied a request made  
15           by an authorized investigative agency under this section.

16           “(c)(1) Notwithstanding any other provision of law  
17           except section 6103 of title 26, United States Code, an  
18           entity receiving a request for records or information under  
19           subsection (a) shall, if the request satisfies the require-  
20           ments of this section, make available such records or infor-  
21           mation within thirty days for inspection or copying, as  
22           may be appropriate, by the agency requesting such records  
23           or information.

24           “(2) Any entity (including any officer, employee, or  
25           agent thereof) that discloses records or information for in-

1 spection or copying pursuant to this section in good faith  
2 reliance upon the certifications made by an agency pursu-  
3 ant to this section shall not be liable for any such disclo-  
4 sure to any person under this title, the constitution of any  
5 State, or any law or regulation of any State or any politi-  
6 cal subdivision of any State.

7       “(d) Subject to the availability of appropriations  
8 therefor, any agency requesting records or information  
9 under this section may reimburse a private entity for any  
10 cost reasonably incurred by such entity in responding to  
11 such request, including the cost of identifying, reproduc-  
12 ing, or transporting records or other data.

13       “(e) An agency receiving records or information pur-  
14 suant to a request under this section may disseminate the  
15 records or information obtained pursuant to such request  
16 outside the agency only to the agency employing the em-  
17 ployee who is the subject of the records or information,  
18 to the Department of Justice for law enforcement or coun-  
19 terintelligence purposes, or, with respect to dissemination  
20 to an agency of the United States, only if such information  
21 is clearly relevant to the authorized responsibilities of such  
22 agency.

23       “(f) Nothing in this section shall affect the authority  
24 of an investigative agency to obtain information pursuant  
25 to the Right to Financial Privacy Act (12 U.S.C. 3401

1 et seq.) or the Fair Credit Reporting Act (15 U.S.C. 1681  
2 et seq.).

3 “DEFINITIONS”

4 “SEC. 805. For purposes of this title—

5 “(a) the phrase ‘classified information’ means  
6 any information that has been determined pursuant  
7 to Executive Order No. 12356 of April 2, 1982, or  
8 successor orders, or the Atomic Energy Act of 1954,  
9 to require protection against unauthorized disclosure  
10 and that is so designated;

11 “(b) the term ‘employee’ includes any person  
12 who receives a salary or compensation of any kind  
13 from the United States Government, is a contractor  
14 of the United States Government or an employee  
15 thereof, is an unpaid consultant of the United States  
16 Government, or otherwise acts for or on behalf of  
17 the United States Government;

18 “(c) the term ‘authorized investigative agency’  
19 means an agency authorized by law or regulation to  
20 conduct a counterintelligence investigation or inves-  
21 tigations of persons who are proposed for access to  
22 classified information to ascertain whether such per-  
23 sons satisfy the criteria for obtaining and retaining  
24 access to such information; and

25 “(d) the term ‘State’ means any State of the  
26 United States, the District of Columbia, the Com-

1 monwealth of Puerto Rico, the Trust Territory of  
2 the Pacific Islands, and any territory or possession  
3 of the United States.

4                   **“EFFECTIVE DATE”**

5                “SEC. 806. This title shall take effect one hundred  
6 eighty days after the date of its enactment.”

7                **SEC. 3. DISCLOSURE OF CONSUMER CREDIT REPORTS FOR  
8 COUNTERINTELLIGENCE PURPOSES.**

9                Section 608 of the Fair Credit Reporting Act (15  
10 U.S.C. 1681f) is amended—

11               (1) by striking “Notwithstanding” and insert-  
12 ing “(a) DISCLOSURE OF CERTAIN IDENTIFYING IN-  
13 FORMATION. Notwithstanding”; and

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

16               “(b) DISCLOSURES TO THE FBI FOR COUNTER-  
17 INTELLIGENCE PURPOSES.—

18               “(1) CONSUMER REPORTS.—Notwithstanding  
19 the provisions of section 604, a consumer reporting  
20 agency shall furnish a consumer report to the Fed-  
21 eral Bureau of Investigation when presented with a  
22 written request for a consumer report, signed by the  
23 Director or Deputy Director of the Federal Bureau  
24 of Investigation who certifies compliance with this  
25 subsection. The Director or Deputy Director may

1 make such a certification only if he has determined  
2 in writing that—

3           “(A) such records are necessary for the  
4 conduct of an authorized foreign counterintel-  
5 ligence investigation; and

6           “(B) there are specific and articulable  
7 facts giving reason to believe that the consumer  
8 whose consumer report is sought is a foreign  
9 power or an agent of a foreign power, as de-  
10 fined in section 101 of the Foreign Intelligence  
11 Surveillance Act of 1978 (50 U.S.C. 1801).

12           “(2) IDENTIFYING INFORMATION.—Notwith-  
13 standing the provisions of section 604, a consumer  
14 reporting agency shall furnish identifying informa-  
15 tion respecting a consumer, limited to name, ad-  
16 dress, former addresses, places of employment, or  
17 former places of employment, to the Federal Bureau  
18 of Investigation when presented with a written re-  
19 quest, signed by the Director or Deputy Director,  
20 which certifies compliance with this subsection. The  
21 Director or Deputy Director may make such certifi-  
22 cation only if the Director or Deputy Director has  
23 determined in writing that—

1               “(A) such information is necessary to the  
2               conduct of an authorized foreign counterintel-  
3               ligence investigation; and

4               “(B) there is information giving reason to  
5               believe that the consumer has been, or is about  
6               to be, in contact with a foreign power or an  
7               agent of a foreign power, as so defined.

8               “(3) CONFIDENTIALITY.—No consumer report-  
9               ing agency or officer, employee, or agent of such  
10               consumer reporting agency may disclose to any per-  
11               son, other than those officers, employees, or agents  
12               of such agency necessary to fulfill the requirement  
13               to disclose information to the Federal Bureau of In-  
14               vestigation under this subsection, that the Federal  
15               Bureau of Investigation has sought or obtained a  
16               consumer report or identifying information respect-  
17               ing any consumer under paragraph (1) or (2), nor  
18               shall such agency, officer, employee, or agent include  
19               in any consumer report any information that would  
20               indicate that the Federal Bureau of Investigation  
21               has sought or obtained such a consumer report or  
22               identifying information.

23               “(4) PAYMENT OF FEES.—The Federal Bureau  
24               of Investigation may, subject to the availability of  
25               appropriations, pay to the consumer reporting agen-

1       ey assembling or providing credit reports or identify-  
2       ing information in accordance with this title, a fee  
3       for reimbursement for such costs as are reasonably  
4       necessary and which have been directly incurred in  
5       searching, reproducing, or transporting books, pa-  
6       pers, records, or other data required or requested to  
7       be produced under this subsection.

8           “(5) LIMIT ON DISSEMINATION.—The Federal  
9       Bureau of Investigation may not disseminate infor-  
10      mation obtained pursuant to this subsection outside  
11      of the Federal Bureau of Investigation, except to the  
12      Department of Justice or as may be necessary for  
13      the conduct of a foreign counterintelligence inves-  
14      tigation.

15           “(6) RULES OF CONSTRUCTION.—Nothing in  
16      this subsection shall be construed to prohibit infor-  
17      mation from being furnished by the Federal Bureau  
18      of Investigation pursuant to a subpoena or court  
19      order, or in connection with a judicial or administra-  
20      tive proceeding to enforce the provisions of this Act.  
21      Nothing in this subsection shall be construed to au-  
22      thorize or permit the withholding of information  
23      from Congress.

24           “(7) REPORTS TO CONGRESS.—On an annual  
25      basis, the Attorney General of the United States

1 shall fully inform the Permanent Select Committee  
2 on Intelligence of the House of Representatives and  
3 the Select Committee on Intelligence of the Senate  
4 concerning all requests made pursuant to para-  
5 graphs (1) and (2).

6           “(8) DAMAGES.—Any agency or department of  
7 the United States obtaining or disclosing credit re-  
8 ports, records, or information contained therein in  
9 violation of this subsection is liable to the consumer  
10 to whom such records relate in an amount equal to  
11 the sum of—

12           “(A) \$100, without regard to the volume  
13 of records involved;

14           “(B) any actual damages sustained by the  
15 consumer as a result of the disclosure;

16           “(C) if the violation is found to have been  
17 willful or intentional, such punitive damages as  
18 a court may allow; and

19           “(D) in the case of any successful action to  
20 enforce liability under this subsection, the costs  
21 of the action, together with reasonable attor-  
22 ney's fees, as determined by the court.

23           “(9) GOOD FAITH EXCEPTION.—Any credit re-  
24 porting agency or agent or employee thereof making  
25 disclosure of credit reports or identifying informa-

1       tion pursuant to this subsection in good faith reli-  
2       ance upon a certificate of the Federal Bureau of In-  
3       vestigation pursuant to this subsection shall not be  
4       liable to any person for such disclosure under this  
5       title, the constitution of any State, or any law or  
6       regulation of any State or any political subdivision  
7       of any State. As used in this subsection, the term  
8       ‘State’ means any State of the United States, the  
9       District of Columbia, the Commonwealth of Puerto  
10      Rico, the Trust Territory of the Pacific Islands, and  
11      any territory or possession of the United States.

12       “(10) LIMITATION OF REMEDIES.—The rem-  
13       edies set forth in this subsection shall be the only ju-  
14       dicial remedies for violation of this subsection.

15       “(11) INJUNCTIVE RELIEF.—In addition to any  
16       other remedy contained in this subsection, injunctive  
17       relief shall be available to require compliance with  
18       the procedures of this subsection. In the event of  
19       any successful action under this subsection, costs of  
20       the action, together with reasonable attorney’s fees,  
21       as determined by the court, may be recovered.”.

22 **SEC. 4. REWARDS FOR INFORMATION CONCERNING ESPIO-**  
23 **NAGE.**

24       (a) REWARDS.—Section 3071 of title 18, United  
25       States Code, is amended—

1                   (1) by inserting "(a)" before "With respect to";

2                   and

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

5                 “(b) With respect to acts of espionage involving or  
6                 directed at the United States, the Attorney General may  
7                 reward any individual who furnishes information—

8                 “(1) leading to the arrest or conviction, in any  
9                 country, of any individual or individuals for commis-  
10                 sion of an act of espionage against the United  
11                 States;

12                 “(2) leading to the arrest or conviction, in any  
13                 country, of any individual or individuals for conspir-  
14                 ing or attempting to commit an act of espionage  
15                 against the United States; or

16                 “(3) leading to the prevention or frustration of  
17                 an act of espionage against the United States.”.

18                 (b) DEFINITIONS.—Section 3077 of such title is  
19                 amended by inserting at the end thereof the following new  
20                 paragraph:

21                 “(8) ‘act of espionage’ means an activity that is  
22                 a violation of—

23                 “(A) section 793, 794, or 798 of title 18,  
24                 United States Code;

1               “(B) section 783(b) of title 50, United  
2               States Code; or

3               “(C) section 4 of the Subversive Activities  
4               Control Act of 1950 (50 U.S.C. 783).”.

5       (e) CLERICAL AMENDMENTS.—The items relating to  
6 chapter 24 in the table of chapters at the beginning of  
7 such title, and in the table of chapters at the beginning  
8 of part II of such title, are each amended by adding at  
9 the end the following: “and espionage.”.

10 **SEC. 5. ESPIONAGE NOT COMMITTED IN ANY DISTRICT.**

11       (a) IN GENERAL.—Chapter 211 of title 18, United  
12 States Code, is amended by inserting after section 3238  
13 the following new section:

14               “SEC. 3239. Espionage and related offenses not com-  
15 mitted in any district.

16               “The trial for any offense involving a violation of—  
17               “(1) section 793, 794, 798, 952, or 1030(a)(1)  
18               of this title;

19               “(2) section 601 of the National Security Act of  
20 1947 (50 U.S.C. 421); or

21               “(3) subsection (b) or (c) of section 4 of the  
22 Subversive Activities Control Act of 1950 (50 U.S.C.  
23 783 (b) or (c)), begun or committed upon the high  
24 seas or elsewhere out of the jurisdiction of any par-  
25 ticular State or district, may be in the District of

1 Columbia or in any other district authorized by  
2 law.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 211 of such title is amended by inserting after the item relating to section 3238 the following: “3239. Jurisdiction of espionage outside the United States and related offenses.”.

**8 SEC. 6. CRIMINAL FORFEITURE FOR VIOLATION OF CER-**

**9 TAIN ESPIONAGE LAWS.**

10       (a) Section 798 of title 18, United States Code, is  
11 amended by adding at the end the following new sub-  
12 sections:

13       “(d)(1) Any person convicted of a violation of this  
14 section shall forfeit to the United States irrespective of  
15 any provision of State law—

16               “(A) any property constituting, or derived from,  
17       any proceeds the person obtained, directly or indi-  
18       rectly, as the result of such violation; and

19           “(B) any of the person’s property used, or in-  
20         tended to be used, in any manner or part, to com-  
21         mit, or to facilitate the commission of, such viola-  
22         tion.

23        "(2) The court, in imposing sentence on a defendant  
24 for a conviction of a violation of this section, shall order

1 that the defendant forfeit to the United States all property  
2 described in paragraph (1).

3       “(3) Except as provided in paragraph (4), the provi-  
4 sions of subsections (b), (c), and (e) through (p) of section  
5 413 of the Comprehensive Drug Abuse Prevention and  
6 Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p))  
7 shall apply to—

8           “(A) property subject to forfeiture under this  
9 subsection;

10          “(B) any seizure or disposition of such prop-  
11 erty; and

12          “(C) any administrative or judicial proceeding  
13 in relation to such property, if not inconsistent with  
14 this subsection.

15          “(4) Notwithstanding section 524(c) of title 28, there  
16 shall be deposited in the Crime Victims Fund established  
17 under section 1402 of the Victims of Crime Act of 1984  
18 (42 U.S.C. 10601) all amounts from the forfeiture of  
19 property under this subsection remaining after the pay-  
20 ment of expenses for forfeiture and sale authorized by law.

21          “(e) As used in subsection (d) of this section, the  
22 term ‘State’ means any State of the United States, the  
23 District of Columbia, the Commonwealth of Puerto Rico,  
24 the Trust Territory of the Pacific Islands, and any terri-  
25 tory or possession of the United States.”.

1       (b) AMENDMENTS FOR CONSISTENCY IN APPLICA-  
2 TION OF FORFEITURE UNDER TITLE 18.—(1) Section  
3 793(h)(3) of such title is amended in the matter above  
4 subparagraph (A) by striking out “(o)” each place it ap-  
5 pears and inserting in lieu thereof “(p)”.

6       (2) Section 794(d)(3) of such title is amended in the  
7 matter above subparagraph (A) by striking out “(o)” each  
8 place it appears and inserting in lieu thereof “(p)”.

9       (c) SUBVERSIVE ACTIVITIES CONTROL ACT.—Sec-  
10 tion 4 of the Subversive Activities Control Act of 1950  
11 (50 U.S.C. 783) is amended by adding at the end the fol-  
12 lowing new subsection:

13       “(g)(1) Any person convicted of a violation of this  
14 section shall forfeit to the United States irrespective of  
15 any provision of State law—

16           “(A) any property constituting, or derived from,  
17 any proceeds the person obtained, directly or indi-  
18 rectly, as the result of such violation; and

19           “(B) any of the person’s property used, or in-  
20 tended to be used, in any manner or part, to com-  
21 mit, or to facilitate the commission of, such viola-  
22 tion.

23       “(2) The court, in imposing sentence on a defendant  
24 for a conviction of a violation of this section, shall order

1 that the defendant forfeit to the United States all property  
2 described in paragraph (1).

3       “(3) Except as provided in paragraph (4), the provi-  
4 sions of subsections (b), (c), and (e) through (p) of section  
5 413 of the Comprehensive Drug Abuse Prevention and  
6 Control Act of 1970 (21 U.S.C. 853(b), (c), and (e)–(p))  
7 shall apply to—

8           “(A) property subject to forfeiture under this  
9 subsection;

10          “(B) any seizure or disposition of such prop-  
11 erty; and

12          “(C) any administrative or judicial proceeding  
13 in relation to such property, if not inconsistent with  
14 this subsection.

15          “(4) Notwithstanding section 524(c) of title 28, there  
16 shall be deposited in the Crime Victims Fund established  
17 under section 1402 of the Victims of Crime Act of 1984  
18 (42 U.S.C. 10601) all amounts from the forfeiture of  
19 property under this subsection remaining after the pay-  
20 ment of expenses for forfeiture and sale authorized by  
21 law.”.

1   **SEC. 7. DENIAL OF ANNUITIES OR RETIRED PAY TO PER-**  
2                   **SONS CONVICTED OF ESPIONAGE IN FOR-**  
3                   **EIGN COURTS INVOLVING UNITED STATES IN-**  
4                   **FORMATION.**

5       Section 8312 of title 5, United States Code, is  
6 amended by adding at the end thereof the following new  
7 section—

8           “(d) For purposes of subsections (b)(1) and (c)(1),  
9 an offense within the meaning of such subsections is es-  
10 tablished if the Attorney General certifies to the agency  
11 administering the annuity or retired pay concerned—

12           “(1) that an individual subject to this chapter  
13 has been convicted by an impartial court of appro-  
14 priate jurisdiction within a foreign country in cir-  
15 cumstances in which the conduct violates the provi-  
16 sions of law enumerated in subsections (b)(1) and  
17 (c)(1), or would violate such provisions had such  
18 conduct taken place with the United States, and  
19 that such conviction is not being appealed or that  
20 final action has been taken on such appeal;

21           “(2) that such conviction was obtained in ac-  
22 cordance with procedures that provided the defend-  
23 ant due process rights comparable to such rights  
24 provided by the United States Constitution, and  
25 such conviction was based upon evidence which

1 would have been admissible in the courts of the  
2 United States; and

3               “(3) that such conviction occurred after the  
4 date of enactment of this subsection.”.

5 SECTION 1. SHORT TITLE:

6        *This Act may be cited as the “Counterintelligence and*  
7 *Security Enhancements Act of 1994”.*

## **8 SEC. 2. ACCESS TO CLASSIFIED INFORMATION.**

9               (a) AMENDMENT OF THE NATIONAL SECURITY ACT OF  
10 1947.—The National Security Act of 1947 (50 U.S.C. 401  
11 et seq.) is amended by adding at the end the following new  
12 title:

16        “SEC. 801. Not later than 180 days after the date of  
17 enactment of this title, the President shall, by Executive  
18 order or regulation, establish procedures to govern access  
19 to classified information which shall be binding upon all  
20 departments, agencies, and offices of the executive branch  
21 of Government. Such procedures shall, at a minimum—

“(1) provide that, except as may be permitted by the President, no employee in the executive branch of Government may be given access to classified information by any department, agency, or office of the ex-

1       *ecutive branch of Government unless, based upon an*  
2       *appropriate background investigation, such access is*  
3       *determined to be clearly consistent with the national*  
4       *security interests of the United States;*

5       “*(2) establish uniform minimum requirements*  
6       *governing the scope and frequency of background in-*  
7       *vestigations and reinvestigations for all employees in*  
8       *the executive branch of Government who require ac-*  
9       *cess to classified information as part of their official*  
10      *responsibilities;*

11      “*(3) provide that all employees in the executive*  
12      *branch of Government who require access to classified*  
13      *information shall be required as a condition of such*  
14      *access to provide written consent to the employing de-*  
15      *partment or agency which permits access by an au-*  
16      *thorized investigative agency to relevant financial*  
17      *records, other financial information, consumer re-*  
18      *ports, and travel records, as determined by the Presi-*  
19      *dent, in accordance with section 802 of this title, dur-*  
20      *ing the period of access to classified information and*  
21      *for a period of five years thereafter;*

22      “*(4) provide that all employees in the executive*  
23      *branch of Government who require access to particu-*  
24      *larly sensitive classified information, as determined*  
25      *by the President, shall be required, as a condition of*

1       *maintaining access to such information, to submit to*  
2       *the employing department or agency, during the pe-*  
3       *riod of such access, relevant information concerning*  
4       *their financial conditions and foreign travel, as deter-*  
5       *mined by the President, as may be necessary to en-*  
6       *sure appropriate security; and*

7           “(5) establish uniform minimum standards to  
8       *ensure that employees whose access to classified infor-*  
9       *mation is being denied or terminated under this title*  
10      *are appropriately advised of the reasons for such de-*  
11     *nial or termination and are provided an adequate op-*  
12     *portunity to respond to all adverse information which*  
13     *forms the basis for such denial or termination before*  
14     *final action by the department or agency concerned,*  
15     *except that, wherever such information is derived*  
16     *from a classified source, appropriate measures shall*  
17     *be taken to conceal the identity of such source from*  
18     *the employee concerned.*

19     ‘‘REQUESTS BY AUTHORIZED INVESTIGATIVE AGENCIES

20     “SEC. 802. (a)(1) Any authorized investigative agency  
21     *may request from any financial agency, financial institu-*  
22     *tion, or holding agency, or from any consumer credit re-*  
23     *porting agency, such financial records, other financial in-*  
24     *formation, and consumer reports as may be necessary in*  
25     *order to conduct any authorized law enforcement investiga-*  
26     *tion, counterintelligence inquiry, or security determination.*

1 Any authorized investigative agency may also request  
2 records maintained by any commercial entity within the  
3 United States pertaining to travel by a person outside the  
4 United States.

5 “(2) Requests may be made under this section where—

6       “(A) the records sought pertain to a person who  
7       is or was an employee required by the President in  
8       an Executive order or regulation, as a condition of  
9       access to classified information, to provide consent,  
10      during a background investigation and for such time  
11      as access to the information is maintained, and for  
12      a period of not more than 5 years thereafter, permit-  
13      ting access to financial records, other financial infor-  
14      mation, consumer reports, and travel records; and

15       “(B)(i) there is information or allegations indi-  
16       cating that the person is, or may be, disclosing classi-  
17       fied information in an unauthorized manner to a for-  
18       eign power or agent of a foreign power;

19       “(ii) information comes to the attention of the  
20       employing agency indicating the person has incurred  
21       excessive indebtedness or has acquired a level of afflu-  
22       ence which cannot be explained by other information  
23       known to the agency; or

24       “(iii) circumstances indicate the person had the  
25       capability and opportunity to disclose classified in-

1       formation which is known to have been lost or com-  
2       promised to a foreign power or an agent of a foreign  
3       power.

4       “(3) Each such request—

5           “(A) shall be accompanied by a written certifi-  
6       cation signed by the department or agency head or  
7       deputy department or agency head concerned, or by  
8       a senior official designated for this purpose by the de-  
9       partment or agency head concerned (whose rank shall  
10      be no lower than Assistant Secretary or Assistant Di-  
11      rector), and shall certify that—

12           “(i) the person concerned is or was an em-  
13       ployee within the meaning of paragraph (2)(A);

14           “(ii) the request is being made pursuant to  
15       an authorized inquiry or investigation and is  
16       authorized under this section; and

17           “(iii) the records or information to be re-  
18       viewed are records or information which the em-  
19       ployee has previously agreed to make available to  
20       the authorized investigative agency for review;

21           “(B) shall contain a copy of the agreement re-  
22       ferred to in subparagraph (A)(iii);

23           “(C) shall identify specifically or by category the  
24       records or information to be reviewed; and

1           “(D) shall inform the recipient of the request of  
2       the prohibition described in subsection (b).

3           “(b) Notwithstanding any other provision of law, no  
4       governmental or private entity, or officer, employee, or  
5       agent of such entity, may disclose to any person, other than  
6       those officers, employees, or agents of such entity necessary  
7       to satisfy a request made under this section, that such entity  
8       has received or satisfied a request made by an authorized  
9       investigative agency under this section.

10          “(c)(1) Notwithstanding any other provision of law  
11       (other than section 6103 of the Internal Revenue Code of  
12       1986), an entity receiving a request for records or informa-  
13       tion under subsection (a) shall, if the request satisfies the  
14       requirements of this section, make available such records or  
15       information within 30 days for inspection or copying, as  
16       may be appropriate, by the agency requesting such records  
17       or information.

18          “(2) Any entity (including any officer, employee, or  
19       agent thereof) that discloses records or information for in-  
20       spection or copying pursuant to this section in good faith  
21       reliance upon the certifications made by an agency pursu-  
22       ant to this section shall not be liable for any such disclosure  
23       to any person under this title, the constitution of any State,  
24       or any law or regulation of any State or any political sub-  
25       division of any State.

1       “(d) Any agency requesting records or information  
2 under this section may, subject to the availability of appro-  
3 priations, reimburse a private entity for any cost reason-  
4 ably incurred by such entity in responding to such request,  
5 including the cost of identifying, reproducing, or transport-  
6 ing records or other data.

7       “(e) An agency receiving records or information pur-  
8 suant to a request under this section may disseminate the  
9 records or information obtained pursuant to such request  
10 outside the agency only—

11           “(1) to the agency employing the employee who  
12 is the subject of the records or information;

13           “(2) to the Department of Justice for law en-  
14 forcement or counterintelligence purposes; or

15           “(3) with respect to dissemination to an agency  
16 of the United States, if such information is clearly  
17 relevant to the authorized responsibilities of such  
18 agency.

19       “(f) Nothing in this section may be construed to affect  
20 the authority of an investigative agency to obtain informa-  
21 tion pursuant to the Right to Financial Privacy Act (12  
22 U.S.C. 3401 et seq.) or the Fair Credit Reporting Act (15  
23 U.S.C. 1681 et seq.).

24                           “EXCEPTIONS

25       “SEC. 803. Except as otherwise specifically provided,  
26 the provisions of this title shall not apply to the President

1 and Vice President, Members of the Congress, Justices of  
2 the Supreme Court, and Federal judges appointed by the  
3 President.

4                           “DEFINITIONS

5        “SEC. 804. For purposes of this title—

6                           “(1) the term ‘authorized investigative agency’  
7 means an agency authorized by law or regulation to  
8 conduct a counterintelligence investigation or inves-  
9 tigations of persons who are proposed for access to  
10 classified information to ascertain whether such per-  
11 sons satisfy the criteria for obtaining and retaining  
12 access to such information;

13                          “(2) the term ‘classified information’ means any  
14 information that has been determined pursuant to  
15 Executive Order No. 12356 of April 2, 1982, or suc-  
16 cessive orders, or the Atomic Energy Act of 1954, to  
17 require protection against unauthorized disclosure  
18 and that is so designated;

19                          “(3) the term ‘consumer credit reporting agency’  
20 has the meaning given such term in section 603 of the  
21 Consumer Credit Protection Act (15 U.S.C. 1681a);

22                          “(4) the term ‘employee’ includes any person  
23 who receives a salary or compensation of any kind  
24 from the United States Government, is a contractor  
25 of the United States Government or an employee  
26 thereof, is an unpaid consultant of the United States

1       *Government, or otherwise acts for or on behalf of the*  
2       *United States Government;*

3           “(5) the terms ‘financial agency’ and ‘financial  
4       institution’ have the meanings given to such terms in  
5       section 5312(a) of title 31, United States Code, and  
6       the term ‘holding agency’ has the meaning given to  
7       such term in section 1101(6) of the Right to Finan-  
8       cial Privacy Act of 1978 (12 U.S.C. 3401);

9           “(6) the terms ‘foreign power’ and ‘agent of a  
10      foreign power’ have the same meanings as set forth in  
11      sections 101 (a) and (b), respectively, of the Foreign  
12      Intelligence Surveillance Act of 1978 (50 U.S.C.  
13      1801); and

14           “(7) the term ‘State’ means each of the several  
15      States of the United States, the District of Columbia,  
16      the Commonwealth of Puerto Rico, the Commonwealth  
17      of the Northern Mariana Islands, the United States  
18      Virgin Islands, Guam, American Samoa, the Repub-  
19      lic of the Marshall Islands, the Federated States of  
20      Micronesia, and the Republic of Palau (until such  
21      time as the Compact of Free Association is ratified),  
22      and any other possession of the United States.”.

23           (b) CLERICAL AMENDMENT.—The table of contents of  
24      the National Security Act of 1947 is amended by adding  
25      at the end the following:

“TITLE VIII—ACCESS TO CLASSIFIED INFORMATION

“Sec. 801. Procedures.  
“Sec. 802. Requests by authorized investigative agencies.  
“Sec. 803. Exceptions.  
“Sec. 804. Definitions.”.

1       (c) *EFFECTIVE DATE*.—The amendments made by sub-  
2 sections (a) and (b) shall take effect 180 days after the date  
3 of enactment of this Act.

4       **SEC. 3. COORDINATION OF COUNTERINTELLIGENCE ACTIVITIES.**

6       (a) *ESTABLISHMENT OF COUNTERINTELLIGENCE POLICY BOARD*.—(1) There is established within the executive  
7 branch of Government a National Counterintelligence Policy Board (in this section referred to as the “Board”). The  
8 Board shall report to the President through the National  
9 Security Council.

12       (2) The Board shall consist of the following individuals:

14           (A) The Attorney General, who shall serve as  
15           Chair.

16           (B) The Secretary of Defense.

17           (C) The Director of Central Intelligence.

18           (D) The Director of the Federal Bureau of Investigation.

20           (E) The Assistant to the President for National  
21           Security Affairs.

1       (b) *FUNCTION OF THE BOARD.*—The Board shall serve  
2    as the principal mechanism for—

3           (1) developing policies and procedures for the ap-  
4       proval of the President to govern the conduct of coun-  
5       terintelligence activities; and

6           (2) resolving conflicts, as directed by the Presi-  
7       dent, which may arise between elements of the Gov-  
8       ernment which carry out such activities.

9       (c) *COORDINATION OF COUNTERINTELLIGENCE MAT-*  
10    TERS *WITH THE FEDERAL BUREAU OF INVESTIGATION.*—

11      (1) The head of each department or agency within the exec-  
12    utive branch of Government shall ensure that—

13           (A) the Federal Bureau of Investigation is ad-  
14       vised immediately of any information, regardless of  
15       its source, which indicates that classified information  
16       is being, or may have been, disclosed in an unauthor-  
17       ized manner to a foreign power or an agent of a for-  
18       eign power;

19           (B) following a report made pursuant to sub-  
20       paragraph (A), the Federal Bureau of Investigation is  
21       consulted with respect to all subsequent actions which  
22       may be undertaken by the department or agency con-  
23       cerned to determine the source of such loss or com-  
24       promise; and

1                   (C) where, after appropriate consultation with  
2                   the department or agency concerned, the Federal Bu-  
3                   reau of Investigation undertakes investigative activi-  
4                   ties to determine the source of the loss or compromise,  
5                   the Bureau is given complete and timely access to its  
6                   employees and records for purposes of such investiga-  
7                   tive activities.

8                   (2) Beginning on February 1, 1995, and each year  
9                   thereafter, the Director of the Federal Bureau of Investiga-  
10                  tion shall, in consultation with the Director of Central In-  
11                  telligence and the Secretary of Defense, submit a report to  
12                  the Select Committee on Intelligence of the Senate and to  
13                  the Permanent Select Committee on Intelligence of the  
14                  House of Representatives with respect to compliance with  
15                  paragraph (1) during the preceding calendar year.

16                  (3) Nothing in this subsection may be construed to  
17                  alter the existing jurisdictional arrangements between the  
18                  Federal Bureau of Investigation and the Department of De-  
19                  fense with respect to investigations of persons subject to the  
20                  Uniform Code of Military Justice, nor to impose additional  
21                  reporting requirements upon the Department of Defense  
22                  with respect to such investigations other than those required  
23                  by existing law and executive branch policy.

24                  (4) As used in this subsection, the terms 'foreign power'  
25                  and 'agent of a foreign power' have the same meanings as

1 set forth in sections 101(a) and (b), respectively, of the For-  
2 eign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

3 **SEC. 4. DISCLOSURE OF CONSUMER CREDIT REPORTS FOR**  
4 **COUNTERINTELLIGENCE PURPOSES.**

5 Section 608 of the Fair Credit Reporting Act (15  
6 U.S.C. 1681f) is amended—

7 (1) by striking “Notwithstanding” and inserting  
8 “(a) *DISCLOSURE OF CERTAIN IDENTIFYING INFOR-*  
9 *MATION.—Notwithstanding*; and

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

12 “(b) *DISCLOSURES TO THE FBI FOR COUNTERINTEL-*  
13 *LIGENCE PURPOSES.—*

14 “(1) *CONSUMER REPORTS.—Notwithstanding the*  
15 *provisions of section 604, a consumer reporting agen-*  
16 *cy shall furnish a consumer report to the Federal Bu-*  
17 *reau of Investigation when presented with a written*  
18 *request for a consumer report, signed by the Director*  
19 *or Deputy Director of the Federal Bureau of Inves-*  
20 *tigation who certifies compliance with this subsection.*  
21 *The Director or Deputy Director may make such a*  
22 *certification only if he has determined in writing*  
23 *that—*

1           “(A) such records are necessary for the con-  
2         duct of an authorized foreign counterintelligence  
3         investigation; and

4           “(B) there are specific and articulable facts  
5         giving reason to believe that the consumer whose  
6         consumer report is sought is a foreign power or  
7         an agent of a foreign power, as defined in sec-  
8         tion 101 of the Foreign Intelligence Surveillance  
9         Act of 1978 (50 U.S.C. 1801).

10          “(2) IDENTIFYING INFORMATION.—Notwithstand-  
11         ing the provisions of section 604, a consumer report-  
12         ing agency shall furnish identifying information re-  
13         specting a consumer, limited to name, address, former  
14         addresses, places of employment, or former places of  
15         employment, to the Federal Bureau of Investigation  
16         when presented with a written request, signed by the  
17         Director or Deputy Director, which certifies compli-  
18         ance with this subsection. The Director or Deputy Di-  
19         rector may make such certification only if the Direc-  
20         tor or Deputy Director has determined in writing  
21         that—

22           “(A) such information is necessary to the  
23         conduct of an authorized foreign counterintel-  
24         ligence investigation; and

1               “(B) there is information giving reason to  
2               believe that the consumer has been, or is about  
3               to be, in contact with a foreign power or an  
4               agent of a foreign power, as so defined.

5               “(3) CONFIDENTIALITY.—No consumer reporting  
6               agency or officer, employee, or agent of such consumer  
7               reporting agency may disclose to any person, other  
8               than those officers, employees, or agents of such agen-  
9               cy necessary to fulfill the requirement to disclose in-  
10              formation to the Federal Bureau of Investigation  
11              under this subsection, that the Federal Bureau of In-  
12              vestigation has sought or obtained a consumer report  
13              or identifying information respecting any consumer  
14              under paragraph (1) or (2), nor shall such agency, of-  
15              ficer, employee, or agent include in any consumer re-  
16              port any information that would indicate that the  
17              Federal Bureau of Investigation has sought or ob-  
18              tained such a consumer report or identifying infor-  
19              mation.

20              “(4) PAYMENT OF FEES.—The Federal Bureau of  
21              Investigation may, subject to the availability of ap-  
22              propriations, pay to the consumer reporting agency  
23              assembling or providing credit reports or identifying  
24              information in accordance with this title, a fee for re-  
25              imbursement for such costs as are reasonably nec-

1       essary and which have been directly incurred in  
2       searching, reproducing, or transporting books, papers,  
3       records, or other data required or requested to be pro-  
4       duced under this subsection.

5           “(5) LIMIT ON DISSEMINATION.—The Federal  
6       Bureau of Investigation may not disseminate infor-  
7       mation obtained pursuant to this subsection outside of  
8       the Federal Bureau of Investigation, except to the De-  
9       partment of Justice or as may be necessary for the  
10      conduct of a foreign counterintelligence investigation.

11          “(6) RULES OF CONSTRUCTION.—Nothing in this  
12      subsection shall be construed to prohibit information  
13      from being furnished by the Federal Bureau of Inves-  
14      tigation pursuant to a subpoena or court order, or in  
15      connection with a judicial or administrative proceed-  
16      ing to enforce the provisions of this Act. Nothing in  
17      this subsection shall be construed to authorize or per-  
18      mit the withholding of information from Congress.

19          “(7) REPORTS TO CONGRESS.—On an annual  
20      basis, the Attorney General of the United States shall  
21      fully inform the Permanent Select Committee on In-  
22      telligence of the House of Representatives and the Se-  
23      lect Committee on Intelligence of the Senate concern-  
24      ing all requests made pursuant to paragraphs (1) and  
25      (2).

1           “(8) *DAMAGES.*—Any agency or department of  
2       the United States obtaining or disclosing credit re-  
3       ports, records, or information contained therein in  
4       violation of this subsection is liable to the consumer  
5       to whom such records relate in an amount equal to  
6       the sum of—

7           “(A) \$100, without regard to the volume of  
8       records involved;

9           “(B) any actual damages sustained by the  
10      consumer as a result of the disclosure;

11          “(C) if the violation is found to have been  
12       willful or intentional, such punitive damages as  
13       a court may allow; and

14          “(D) in the case of any successful action to  
15       enforce liability under this subsection, the costs  
16       of the action, together with reasonable attorney’s  
17       fees, as determined by the court.

18          “(9) *GOOD FAITH EXCEPTION.*—Any credit re-  
19       porting agency or agent or employee thereof making  
20       disclosure of credit reports or identifying information  
21       pursuant to this subsection in good faith reliance  
22       upon a certificate of the Federal Bureau of Investiga-  
23       tion pursuant to this subsection shall not be liable to  
24       any person for such disclosure under this title, the  
25       constitution of any State, or any law or regulation

1       *of any State or any political subdivision of any*  
2       *State. As used in this subsection, the term ‘State’*  
3       *means any State of the United States, the District of*  
4       *Columbia, the Commonwealth of Puerto Rico, the*  
5       *Trust Territory of the Pacific Islands, and any terri-*  
6       *tory or possession of the United States.*

7           “(10) *LIMITATION OF REMEDIES*.—*The remedies*  
8       *set forth in this subsection shall be the only judicial*  
9       *remedies for violation of this subsection.*

10          “(11) *INJUNCTIVE RELIEF*.—*In addition to any*  
11       *other remedy contained in this subsection, injunctive*  
12       *relief shall be available to require compliance with the*  
13       *procedures of this subsection. In the event of any suc-*  
14       *cessful action under this subsection, costs of the ac-*  
15       *tion, together with reasonable attorney’s fees, as deter-*  
16       *mined by the court, may be recovered.”.*

17      **SEC. 5. REWARDS FOR INFORMATION CONCERNING ESPIO-**

18           **NAGE.**

19          (a) *REWARDS*.—*Section 3071 of title 18, United States*  
20       *Code, is amended—*

21           (1) *by inserting “(a)” before “With respect to”;*  
22       *and*

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

1       “(b) With respect to acts of espionage involving or di-  
2 rected at the United States, the Attorney General may re-  
3 ward any individual who furnishes information—

4           “(1) leading to the arrest or conviction, in any  
5 country, of any individual or individuals for commis-  
6 sion of an act of espionage against the United States;

7           “(2) leading to the arrest or conviction, in any  
8 country, of any individual or individuals for conspir-  
9 ing or attempting to commit an act of espionage  
10 against the United States; or

11           “(3) leading to the prevention or frustration of  
12 an act of espionage against the United States.”.

13       (b) *DEFINITIONS.*—Section 3077 of such title is  
14 amended by adding at the end the following new paragraph:

15           “(8) ‘act of espionage’ means an activity that is  
16 a violation of—

17           “(A) section 793, 794, or 798 of title 18,  
18 *United States Code*; or

19           “(B) section 783(b) of title 50, *United*  
20 *States Code*. ”.

21       (c) *CLERICAL AMENDMENTS.*—The items relating to  
22 chapter 24 in the table of chapters at the beginning of such  
23 title, and in the table of chapters at the beginning of part  
24 II of such title, are each amended by adding at the end  
25 the following: “and espionage.”.

## **1 SEC. 6. ESPIONAGE NOT COMMITTED IN ANY DISTRICT.**

2       (a) *IN GENERAL.*—Chapter 211 of title 18, United  
3 States Code, is amended by inserting after section 3238 the  
4 following new section:

5     ***“§ 3239. Espionage and related offenses not committed***  
6                        ***in any district***

7        “The trial for any offense involving a violation of—  
8            “(1) section 793, 794, 798, 952, or 1030(a)(1) of  
9        this title,

“(2) section 601 of the National Security Act of  
1947 (50 U.S.C. 421), or

“(3) subsection (b) or (c) of section 4 of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b) or (c)), begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district,

17 may be in the District of Columbia or in any other district  
18 authorized by law.”.

19           (b) CLERICAL AMENDMENT.—The table of sections at  
20 the beginning of chapter 211 of such title is amended by  
21 inserting after the item relating to section 3238 the follow-  
22 ing:

*"3239. Espionage and related offenses not committed in any district."*

1   **SEC. 7. CRIMINAL FORFEITURE FOR VIOLATION OF CER-**2                   **TAIN ESPIONAGE LAWS.**

3                 (a) *IN GENERAL.*—Section 798 of title 18, United  
4   States Code, is amended by adding at the end the following  
5   new subsections:

6                 “(d)(1) Any person convicted of a violation of this sec-  
7   tion shall forfeit to the United States irrespective of any  
8   provision of State law—

9                 “(A) any property constituting, or derived from,  
10   any proceeds the person obtained, directly or indi-  
11   rectly, as the result of such violation; and

12                 “(B) any of the person’s property used, or in-  
13   tended to be used, in any manner or part, to commit,  
14   or to facilitate the commission of, such violation.

15                 “(2) The court, in imposing sentence on a defendant  
16   for a conviction of a violation of this section, shall order  
17   that the defendant forfeit to the United States all property  
18   described in paragraph (1).

19                 “(3) Except as provided in paragraph (4), the provi-  
20   sions of subsections (b), (c), and (e) through (p) of section  
21   413 of the Comprehensive Drug Abuse Prevention and Con-  
22   trol Act of 1970 (21 U.S.C. 853 (b), (c), and (e)–(p)) shall  
23   apply to—

24                 “(A) property subject to forfeiture under this  
25   subsection;

1           “(B) any seizure or disposition of such property;

2        *and*

3           “(C) any administrative or judicial proceeding  
4        *in relation to such property if not inconsistent with*  
5        *this subsection.*

6           “(4) Notwithstanding section 524(c) of title 28, there  
7        *shall be deposited in the Crime Victims Fund established*  
8        *under section 1402 of the Victims of Crime Act of 1984 (42*  
9        *U.S.C. 10601) all amounts from the forfeiture of property*  
10      *under this subsection remaining after the payment of ex-*  
11      *penses for forfeiture and sale authorized by law.*

12          “(e) As used in subsection (d) of this section, the term  
13      ‘State’ means each of the several States of the United States,  
14      *the District of Columbia, the Commonwealth of Puerto Rico,*  
15      *the Commonwealth of the Northern Mariana Islands, the*  
16      *United States Virgin Islands, Guam, American Samoa, the*  
17      *Republic of the Marshall Islands, the Federated States of*  
18      *Micronesia, and the Republic of Palau (until such time as*  
19      *the Compact of Free Association is ratified), and any other*  
20      *possession of the United States.’.*

21          (b) AMENDMENTS FOR CONSISTENCY IN APPLICATION  
22          OF FORFEITURE UNDER TITLE 18.—(1) Section 793(h)(3)  
23      *of such title is amended in the matter above subparagraph*  
24      *(A) by striking out “(o)” each place it appears and insert-*  
25      *ing in lieu thereof “(p)”.*

1       (2) Section 794(d)(3) of such title is amended in the  
2 matter above subparagraph (A) by striking out "(o)" each  
3 place it appears and inserting in lieu thereof "(p)".

4       (c) *SUBVERSIVE ACTIVITIES CONTROL ACT.*—Section  
5 4 of the Subversive Activities Control Act of 1950 (50  
6 U.S.C. 783) is amended by adding at the end the following  
7 new subsection:

8           “(g)(1) Any person convicted of a violation of this sec-  
9 tion shall forfeit to the United States irrespective of any  
10 provision of State law—

11           “(A) any property constituting, or derived from,  
12 any proceeds the person obtained, directly or indi-  
13 rectly, as the result of such violation; and

14           “(B) any of the person's property used, or in-  
15 tended to be used, in any manner or part, to commit,  
16 or to facilitate the commission of, such violation.

17           “(2) The court, in imposing sentence on a defendant  
18 for a conviction of a violation of this section, shall order  
19 that the defendant forfeit to the United States all property  
20 described in paragraph (1).

21           “(3) Except as provided in paragraph (4), the provi-  
22 sions of subsections (b), (c), and (e) through (p) of section  
23 413 of the Comprehensive Drug Abuse Prevention and Con-  
24 trol Act of 1970 (21 U.S.C. 853(b), (c), and (e)-(p)) shall  
25 apply to—

1               “(A) property subject to forfeiture under this  
2 subsection;

3                   “(B) any seizure or disposition of such property;

4                   and

5               “(C) any administrative or judicial proceeding  
6       in relation to such property, if not inconsistent with  
7       this subsection.

“(4) Notwithstanding section 524(c) of title 28, there shall be deposited in the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) all amounts from the forfeiture of property under this subsection remaining after the payment of expenses for forfeiture and sale authorized by law.”.

14      ***SEC. 8. DENIAL OF ANNUITIES OR RETIRED PAY TO PER-***  
15                    ***SONS CONVICTED OF ESPIONAGE IN FOREIGN***  
16                    ***COURTS INVOLVING UNITED STATES INFOR-***  
17                    ***MATION.***

18        *Section 8312 of title 5, United States Code, is amended*  
19    *by adding at the end thereof the following new subsection:*

“(d) For purposes of subsections (b)(1) and (c)(1), an offense within the meaning of such subsections is established if the Attorney General certifies to the agency administering the annuity or retired pay concerned—

“(1) that an individual subject to this chapter has been convicted by an impartial court of appro-

1       *priate jurisdiction within a foreign country in cir-*  
2       *cumstances in which the conduct violates the provi-*  
3       *sions of law enumerated in subsections (b)(1) and*  
4       *(c)(1), or would violate such provisions had such con-*  
5       *duct taken place with the United States, and that*  
6       *such conviction is not being appealed or that final ac-*  
7       *tion has been taken on such appeal;*

8           “(2) that such conviction was obtained in ac-  
9       *cordance with procedures that provided the defendant*  
10      *due process rights comparable to such rights provided*  
11      *by the United States Constitution, and such convic-*  
12      *tion was based upon evidence which would have been*  
13      *admissible in the courts of the United States; and*

14           “(3) that such conviction occurred after the date  
15      *of enactment of this subsection.”.*

16   **SEC. 9. PROVIDING A COURT ORDER PROCESS FOR PHYS-**  
17           **ICAL SEARCHES UNDERTAKEN FOR FOREIGN**  
18           **INTELLIGENCE PURPOSES.**

19       *(a) AMENDMENT OF THE FOREIGN INTELLIGENCE*  
20      *SURVEILLANCE ACT OF 1978.—The Foreign Intelligence*  
21      *Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amend-*  
22      *ed—*

23           *(1) by redesignating title III as title IV and sec-*  
24      *tion 301 as section 401, respectively;*

1                   (2) in section 401 (as redesignated) by inserting  
2                   “(other than title III)” after “provisions of this Act”;  
3                   and

4                   (3) by inserting after title II the following new  
5                   title:

6                   **“TITLE III—PHYSICAL SEARCHES  
7                   WITHIN THE UNITED STATES  
8                   FOR FOREIGN INTELLIGENCE  
9                   PURPOSES”**

10                  “AUTHORIZATION OF PHYSICAL SEARCHES FOR FOREIGN  
11                   INTELLIGENCE PURPOSES

12                  “SEC. 301. (a) Applications for a court order under  
13                  this title are authorized if the President has, by written au-  
14                  thorization, empowered the Attorney General to approve ap-  
15                  plications to the Foreign Intelligence Surveillance Court.

16                  Notwithstanding any other law, a judge of the court to  
17                  whom application is made may grant an order in accord-  
18                  ance with section 303 approving a physical search in the  
19                  United States of the premises, property, information, or  
20                  material of a foreign power or an agent of a foreign power  
21                  for the purpose of collecting foreign intelligence informa-  
22                  tion.

23                  “(b) The Foreign Intelligence Surveillance Court shall  
24                  have jurisdiction to hear applications for and grant orders  
25                  approving a physical search for the purpose of obtaining

1   foreign intelligence information anywhere within the Unit-  
2   ed States under the procedures set forth in this title, except  
3   that no judge shall hear the same application which has  
4   been denied previously by another judge designated under  
5   section 103(a) of the Act. If any judge so designated denies  
6   an application for an order authorizing a physical search  
7   under this title, such judge shall provide immediately for  
8   the record a written statement of each reason for his deci-  
9   sion and, on motion of the United States, the record shall  
10   be transmitted, under seal, to the court of review established  
11   under section 103(b).

12       “(c) The court of review established under section  
13   103(b) shall have jurisdiction to review the denial of any  
14   application made under this title. If such court determines  
15   that the application was properly denied, the court shall  
16   immediately provide for the record a written statement of  
17   each reason for its decision and, on petition of the United  
18   States for a writ of certiorari, the record shall be transmit-  
19   ted under seal to the Supreme Court, which shall have juris-  
20   diction to review such decision.

21       “(d) Judicial proceedings under this title shall be con-  
22   cluded as expeditiously as possible. The record of proceed-  
23   ings under this title, including applications made and or-  
24   ders granted, shall be maintained under security measures  
25   established by the Chief Justice of the United States in con-

1 sultation with the Attorney General and the Director of  
2 Central Intelligence.

3 "APPLICATION FOR AN ORDER

4 "SEC. 302. (a) Each application for an order approv-  
5 ing a physical search under this title shall be made by a  
6 Federal officer in writing upon oath or affirmation to a  
7 judge of the Foreign Intelligence Surveillance Court. Each  
8 application shall require the approval of the Attorney Gen-  
9 eral based upon the Attorney General's finding that it satis-  
10 fies the criteria and requirements for such application as  
11 set forth in this title. Each application shall include—

12 "(1) the identity of the Federal officer making  
13 the application;

14 "(2) the authority conferred on the Attorney  
15 General by the President and the approval of the At-  
16 torney General to make the application;

17 "(3) the identity, if known, or a description of  
18 the target of the search, and a detailed description of  
19 the premises or property to be searched and of the in-  
20 formation, material, or property to be seized, repro-  
21 duced, or altered;

22 "(4) a statement of the facts and circumstances  
23 relied upon by the applicant to justify the applicant's  
24 belief that—

25 "(A) the target of the physical search is a  
26 foreign power or an agent of a foreign power;

1           “(B) the premises or property to be searched  
2       contains foreign intelligence information; and

3           “(C) the premises or property to be searched  
4       is owned, used, possessed by, or is in transit to  
5       or from a foreign power or an agent of a foreign  
6       power;

7           “(5) a statement of the proposed minimization  
8       procedures;

9           “(6) a statement of the nature of the foreign in-  
10      telligence sought and the manner in which the phys-  
11      ical search is to be conducted;

12           “(7) a certification or certifications by the As-  
13      sistant to the President for National Security Affairs  
14      or an executive branch official or officials designated  
15      by the President from among those executive branch  
16      officers employed in the area of national security or  
17      defense and appointed by the President, by and with  
18      the advice and consent of the Senate—

19           “(A) that the certifying official deems the  
20      information sought to be foreign intelligence in-  
21      formation;

22           “(B) that the purpose of the search is to ob-  
23      tain foreign intelligence information;

1           “(C) that such information cannot reasonably be obtained by normal investigative techniques;

4           “(D) that designates the type of foreign intelligence information being sought according to  
5           the categories described in section 101(e); and

7           “(E) includes a statement explaining the basis for the certifications required by subparagraphs (C) and (D); and

10          “(8) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, premises, or property specified in the application, and the action taken on each previous application.

15          “(b) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

18          “(c) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 303.

21           “ISSUANCE OF AN ORDER

22          “SEC. 303. (a) Upon an application made pursuant to section 302, the judge shall enter an ex parte order as requested or as modified approving the physical search if the judge finds that—

1           “(1) the President has authorized the Attorney  
2         General to approve applications for physical searches  
3         for foreign intelligence purposes;

4           “(2) the application has been made by a Federal  
5         officer and approved by the Attorney General;

6           “(3) on the basis of the facts submitted by the  
7         applicant there is probable cause to believe that—

8               “(A) the target of the physical search is a  
9         foreign power or an agent of a foreign power, ex-  
10        cept that no United States person may be con-  
11        sidered an agent of a foreign power solely upon  
12        the basis of activities protected by the first  
13        amendment to the Constitution of the United  
14        States;

15               “(B) the premises or property to be searched  
16        is owned, used, possessed by, or is in transit to  
17        or from an agent of a foreign power or a foreign  
18        power; and

19               “(C) physical search of such premises or  
20        property can reasonably be expected to yield for-  
21        eign intelligence information which cannot rea-  
22        sonably be obtained by normal investigative  
23        means;

1           “(4) the proposed minimization procedures meet  
2 the definition of minimization contained in this title;  
3 and

4           “(5) the application which has been filed con-  
5 tains all statements and certifications required by sec-  
6 tion 302, and, if the target is a United States person,  
7 the certification or certifications are not clearly erro-  
8 neous on the basis of the statement made under sec-  
9 tion 302(a)(7)(E) and any other information fur-  
10 nished under section 302(c).

11          “(b) An order approving a physical search under this  
12 section shall—

13           “(1) specify—

14              “(A) the identity, if known, or a description  
15 of the target of the physical search;

16              “(B) the nature and location of each of the  
17 premises or property to be searched;

18              “(C) the type of information, material, or  
19 property to be seized, altered, or reproduced;

20              “(D) a statement of the manner in which  
21 the physical search is to be conducted and, when-  
22 ever more than one physical search is authorized  
23 under the order, the authorized scope of each  
24 search and what minimization procedures shall

1           apply to the information acquired by each  
2           search; and

3           “(E) the period of time during which phys-  
4           ical searches are approved; and

5           “(2) direct—

6           “(A) that the minimization procedures be  
7           followed;

8           “(B) that, upon the request of the applicant,  
9           a specified landlord, custodian, or other specified  
10          person furnish the applicant forthwith all infor-  
11          mation, facilities, or assistance necessary to ac-  
12          complish the physical search in such a manner  
13          as will protect its secrecy and produce a mini-  
14          mum of interference with the services that such  
15          landlord, custodian, or other person is providing  
16          the target of the physical search;

17          “(C) that such landlord, custodian or other  
18          person maintain under security procedures ap-  
19          proved by the Attorney General and the Director  
20          of Central Intelligence any records concerning  
21          the search or the aid furnished that such person  
22          wishes to retain;

23          “(D) that the applicant compensate, at the  
24          prevailing rate, such landlord, custodian, or  
25          other person for furnishing such aid; and

1               “(E) that the Federal officer conducting the  
2               physical search promptly report to the court the  
3               circumstances and results of the physical search.

4               “(c)(1) An order issued under this section may ap-  
5               prove a physical search for the period necessary to achieve  
6               its purpose, or for ninety days, whichever is less, except  
7               that an order under this section shall approve physical  
8               search targeted against a foreign power, as defined in para-  
9               graph (1), (2), or (3) of section 101(a), for the period speci-  
10               fied in the application or for one year, whichever is less.

11               “(2) Extensions of an order issued under this title may  
12               be granted on the same basis as the original order upon  
13               an application for an extension and new findings made in  
14               the same manner as required for the original order, except  
15               that an extension of an order under this Act for a physical  
16               search targeted against a foreign power, as defined in sec-  
17               tion 101(a) (5) or (6), or against a foreign power, as de-  
18               fined in section 101(a)(4), that is not a United States per-  
19               son, may be for a period not to exceed one year if the judge  
20               finds probable cause to believe that no property of any indi-  
21               vidual United States person will be acquired during the pe-  
22               riod.

23               “(3) At or before the end of the period of time for which  
24               a physical search is approved by an order or an extension,  
25               or at any time after a physical search is carried out, the

1 judge may assess compliance with the minimization proce-  
2 dures by reviewing the circumstances under which informa-  
3 tion concerning United States persons was acquired, re-  
4 tained, or disseminated.

5 “(d)(1) Notwithstanding any other provision of this  
6 title, whenever the Attorney General reasonably determines  
7 that—

8       “(A) an emergency situation exists with respect  
9 to the execution of a physical search to obtain foreign  
10 intelligence information before an order authorizing  
11 such search can with due diligence be obtained, and

12       “(B) the factual basis for issuance of an order  
13 under this title to approve such a search exists,

14 the Attorney General may authorize the execution of an  
15 emergency physical search if—

16       “(i) a judge having jurisdiction under section  
17 103 is informed by the Attorney General or the Attor-  
18 ney General’s designee at the time of such authoriza-  
19 tion that the decision has been made to execute an  
20 emergency search, and

21       “(ii) an application in accordance with this title  
22 is made to that judge as soon as practicable but not  
23 more than 24 hours after the Attorney General au-  
24 thorizes such search.

1       “(2) If the Attorney General authorizes an emergency  
2 search under paragraph (1), the Attorney General shall re-  
3 quire that the minimization procedures required by this  
4 title for the issuance of a judicial order be followed.

5       “(3) In the absence of a judicial order approving such  
6 a physical search, the search shall terminate the earlier of—  
7           “(A) the date on which the information sought is  
8 obtained;

9           “(B) the date on which the application for the  
10 order is denied; or

11           “(C) the expiration of 24 hours from the time of  
12 authorization by the Attorney General.

13       “(4) In the event that such application for approval  
14 is denied, or in any other case where the physical search  
15 is terminated and no order is issued approving the search,  
16 no information obtained or evidence derived from such  
17 search shall be received in evidence or otherwise disclosed  
18 in any trial, hearing, or other proceeding in or before any  
19 court, grand jury, department, office, agency, regulatory  
20 body, legislative committee, or other authority of the United  
21 States, a State, or political subdivision thereof, and no in-  
22 formation concerning any United States person acquired  
23 from such search shall subsequently be used or disclosed in  
24 any other manner by Federal officers or employees without  
25 the consent of such person, except with the approval of the

1 Attorney General, if the information indicates a threat of  
2 death or serious bodily harm to any person. A denial of  
3 the application made under this subsection may be reviewed  
4 as provided in section 301.

5 “(e) Applications made and orders granted under this  
6 title shall be retained for a period of at least 10 years from  
7 the date of the application.

8 “USE OF INFORMATION

9 “SEC. 304. (a) Information acquired from a physical  
10 search conducted pursuant to this title concerning any  
11 United States person may be used and disclosed by Federal  
12 officers and employees without the consent of the United  
13 States person only in accordance with the minimization  
14 procedures required by this title. No information acquired  
15 from a physical search pursuant to this title may be used  
16 or disclosed by Federal officers or employees except for law-  
17 ful purposes.

18 “(b) No information acquired pursuant to this title  
19 shall be disclosed for law enforcement purposes unless such  
20 disclosure is accompanied by a statement that such infor-  
21 mation, or any information derived therefrom, may only  
22 be used in a criminal proceeding with the advance author-  
23 ization of the Attorney General.

24 “(c) Whenever the United States intends to enter into  
25 evidence or otherwise use or disclose in any trial, hearing,  
26 or other proceeding in or before any court, department, offi-

1   *cer, agency, regulatory body, or other authority of the Unit-*  
2   *ed States, against an aggrieved person, any information ob-*  
3   *tained or derived from a physical search of the premises*  
4   *or property of that aggrieved person pursuant to the author-*  
5   *ity of this title, the United States shall, prior to the trial,*  
6   *hearing, or the other proceeding or at a reasonable time*  
7   *prior to an effort to so disclose or so use that information*  
8   *or submit it in evidence, notify the aggrieved person and*  
9   *the court or other authority in which the information is*  
10   *to be disclosed or used that the United States intends to*  
11   *so disclose or so use such information.*

12         “(d) Whenever any State or political subdivision there-  
13   *of intends to enter into evidence or otherwise use or disclose*  
14   *in any trial, hearing, or other proceeding in or before any*  
15   *court, department, officer, agency, regulatory body, or other*  
16   *authority of a State or a political subdivision thereof*  
17   *against an aggrieved person any information obtained or*  
18   *derived from a physical search of the premises or property*  
19   *of that aggrieved person pursuant to the authority of this*  
20   *title, the State or political subdivision thereof shall notify*  
21   *the aggrieved person, the court or other authority in which*  
22   *the information is to be disclosed or used, and the Attorney*  
23   *General that the State or political subdivision thereof in-*  
24   *tends to so disclose or so use such information.*

1       “(e)(1) Any person against whom evidence obtained or  
2 derived from a physical search to which he is an aggrieved  
3 person is to be, or has been, introduced or otherwise used  
4 or disclosed in any trial, hearing, or other proceeding in  
5 or before any court, department, officer, agency, regulatory  
6 body, or other authority of the United States, a State, or  
7 a political subdivision thereof, may move to suppress the  
8 evidence obtained or derived from such search on the  
9 grounds that—

10           “(A) the information was unlawfully acquired;  
11          or

12           “(B) the physical search was not made in con-  
13 formity with an order of authorization or approval.

14           “(2) Such a motion shall be made before the trial, hear-  
15 ing, or other proceeding unless there was no opportunity  
16 to make such a motion or the person was not aware of the  
17 grounds of the motion.

18           “(f) Whenever a court or other authority is notified  
19 pursuant to subsection (c) or (d), or whenever a motion is  
20 made pursuant to subsection (e), or whenever any motion  
21 or request is made by an aggrieved person pursuant to any  
22 other statute or rule of the United States or any State before  
23 any court or other authority of the United States or any  
24 State to discover or obtain applications or orders or other  
25 materials relating to a physical search authorized by this

1   title or to discover, obtain, or suppress evidence or informa-  
2   tion obtained or derived from a physical search authorized  
3   by this title, the United States district court or, where the  
4   motion is made before another authority, the United States  
5   district court in the same district as the authority shall,  
6   notwithstanding any other law, if the Attorney General files  
7   an affidavit under oath that disclosure or any adversary  
8   hearing would harm the national security of the United  
9   States, review *in camera* and *ex parte* the application,  
10   order, and such other materials relating to the physical  
11   search as may be necessary to determine whether the phys-  
12   ical search of the aggrieved person was lawfully authorized  
13   and conducted. In making this determination, the court  
14   may disclose to the aggrieved person, under appropriate se-  
15   curity procedures and protective orders, portions of the ap-  
16   plication, order, or other materials relating to the physical  
17   search only where such disclosure is necessary to make an  
18   accurate determination of the legality of the physical search.

19           “(g) If the United States district court pursuant to  
20   subsection (f) determines that the physical search was not  
21   lawfully authorized or conducted, it shall, in accordance  
22   with the requirements of law, suppress the evidence which  
23   was unlawfully obtained or derived from the physical search  
24   of the aggrieved person or otherwise grant the motion of  
25   the aggrieved person. If the court determines that the phys-

1   *ical search was lawfully authorized or conducted, it shall*  
2   *deny the motion of the aggrieved person except to the extent*  
3   *that due process requires discovery or disclosure.*

4         “(h) Orders granting motions or requests under sub-  
5    section (g), decisions under this section that a physical  
6    search was not lawfully authorized or conducted, and orders  
7    of the United States district court requiring review or  
8    granting disclosure of applications, orders, or other mate-  
9    rials relating to the physical search shall be final orders  
10   and binding upon all courts of the United States and the  
11   several States except a United States Court of Appeals or  
12   the Supreme Court.

13         “(i) If an emergency execution of a physical search  
14    is authorized under section 303(d) and a subsequent order  
15    approving the search is not obtained, the judge shall cause  
16    to be served on any United States person named in the ap-  
17    plication and on such other United States persons subject  
18    to the search as the judge may determine in his discretion  
19    it is in the interests of justice to serve, notice of—

20             “(1) the fact of the application;

21             “(2) the period of the search; and

22             “(3) the fact that during the period information  
23    was or was not obtained.

24   On an ex parte showing of good cause to the judge, the serv-  
25   ing of the notice required by this subsection may be post-

1   poned or suspended for a period not to exceed 90 days.  
2   Thereafter, on a further ex parte showing of good cause,  
3   the court shall forego ordering the serving of the notice re-  
4   quired under this subsection.

5                     “CONGRESSIONAL OVERSIGHT

6        “SEC. 305. On a semiannual basis the Attorney Gen-  
7   eral shall fully inform the Permanent Select Committee on  
8   Intelligence of the House of Representatives and the Select  
9   Committee on Intelligence of the Senate concerning all  
10   physical searches conducted pursuant to this title. On an  
11   annual basis the Attorney General shall also provide to  
12   those committees a report setting forth with respect to the  
13   preceding calendar year—

14               “(1) the total number of applications made for  
15   orders approving physical searches under this title;  
16   and

17               “(2) the total number of such orders either grant-  
18   ed, modified, or denied.

19                     “PENALTIES

20        “SEC. 306. (a) OFFENSE.—A person is guilty of an  
21   offense if he intentionally—

22               “(1) under color of law for the purpose of obtain-  
23   ing foreign intelligence information, executes a phys-  
24   ical search within the United States except as author-  
25   ized by statute; or

1           “(2) discloses or uses information obtained under  
2       color of law by physical search within the United  
3       States, knowing or having reason to know that the in-  
4       formation was obtained through physical search not  
5       authorized by statute, for the purpose of obtaining in-  
6       telligence information.

7           “(b) DEFENSE.—It is a defense to a prosecution under  
8       subsection (a) that the defendant was a law enforcement  
9       or investigative officer engaged in the course of his official  
10      duties and the physical search was authorized by and con-  
11      ducted pursuant to a search warrant or court order of a  
12      court of competent jurisdiction.

13           “(c) PENALTY.—An offense described in this section is  
14      punishable by a fine of not more than \$10,000 or imprison-  
15      ment for not more than five years, or both.

16           “(d) JURISDICTION.—There is Federal jurisdiction  
17      over an offense under this section if the person committing  
18      the offense was an officer or employee of the United States  
19      at the time the offense was committed.

20                           “CIVIL LIABILITY

21           “SEC. 307. CIVIL ACTION.—An aggrieved person, other  
22      than a foreign power or an agent of a foreign power, as  
23      defined in section 101 (a) or (b)(1)(A), respectively, of this  
24      Act, whose premises, property, information, or material has  
25      been subjected to a physical search within the United States  
26      or about whom information obtained by such a physical

1   *search has been disclosed or used in violation of section 306*  
2   *shall have a cause of action against any person who com-*  
3   *mitted such violation and shall be entitled to recover—*

4           “(1) *actual damages, but not less than liquidated*  
5           *damages of \$1,000 or \$100 per day for each day of*  
6           *violation, whichever is greater;*

7           “(2) *punitive damages; and*

8           “(3) *reasonable attorney’s fees and other inves-*  
9           *tigative and litigation costs reasonably incurred.*

10           “*AUTHORIZATION DURING TIME OF WAR*

11           “*SEC. 308. Notwithstanding any other law, the Presi-*  
12           *dent, through the Attorney General, may authorize physical*  
13           *searches without a court order under this title to acquire*  
14           *foreign intelligence information for a period not to exceed*  
15           *15 calendar days following a declaration of war by the Con-*  
16           *gress.*

17           “*DEFINITIONS*

18           “*SEC. 309. As used in this title:*

19           “(1) *The terms ‘foreign power’, ‘agent of a for-*  
20           *eign power’, ‘international terrorism’, ‘sabotage’, ‘for-*  
21           *eign intelligence information’, ‘Attorney General’,*  
22           *‘United States person’, ‘United States’, ‘person’, and*  
23           *‘State’ shall have the same meanings as in section*  
24           *101 of this Act.*

25           “(2) *‘Aggrieved person’ means a person whose*  
26           *premises, property, information, or material is the*

1       *target of physical search or any other person whose  
2       premises, property, information, or material was sub-  
3       ject to physical search.*

4           “(3) ‘Foreign Intelligence Surveillance Court’  
5       means the court established by section 103(a) of this  
6       Act.

7           “(4) ‘Minimization procedures’ with respect to  
8       physical search, means—

9               “(A) specific procedures, which shall be  
10       adopted by the Attorney General, that are rea-  
11       sonably designed in light of the purposes and  
12       technique of the particular physical search, to  
13       minimize the acquisition and retention, and pro-  
14       hibit the dissemination, of nonpublicly available  
15       information concerning unconsenting United  
16       States persons consistent with the need of the  
17       United States to obtain, produce, and dissemi-  
18       nate foreign intelligence information;

19               “(B) procedures that require that non-pub-  
20       licly available information, which is not foreign  
21       intelligence information, as defined in section  
22       101(e) (1) of this Act, shall not be disseminated  
23       in a manner that identifies any United States  
24       person, without such person’s consent, unless  
25       such person’s identity is necessary to understand

1           such foreign intelligence information or assess its  
 2           importance; and

3                 “(C) notwithstanding subparagraphs (A)  
 4                 and (B), procedures that allow for the retention  
 5                 and dissemination of information that is evi-  
 6                 dence of a crime which has been, is being, or is  
 7                 about to be committed and that is to be retained  
 8                 or disseminated for law enforcement purposes.

9                 “(5) ‘Physical search’ means any physical intru-  
 10                 sion into premises or property (including examina-  
 11                 tion of the interior of property by technical means)  
 12                 that is intended to result in a seizure, reproduction,  
 13                 inspection, or alteration of information, material, or  
 14                 property, under circumstances in which a person has  
 15                 a reasonable expectation of privacy and a warrant  
 16                 would be required for law enforcement purposes, but  
 17                 does not include ‘electronic surveillance’, as defined in  
 18                 section 101(f) of this Act.”.

19                 (b) CLERICAL AMENDMENT.—The table of contents for  
 20                 the Foreign Intelligence Surveillance Act of 1978 is amend-  
 21                 ed by striking the items relating to title III and inserting  
 22                 the following:

“TITLE III—PHYSICAL SEARCHES WITHIN THE UNITED STATES  
 FOR FOREIGN INTELLIGENCE PURPOSES

“Sec. 301. Authorization of physical searches for foreign intelligence purposes.

“Sec. 302. Application for an order.

“Sec. 303. Issuance of an order.

“Sec. 304. Use of information.

*“Sec. 305. Congressional oversight.*

*"Sec. 306. Penalties.*

*“Sec. 307. Civil liability.*

*"Sec. 308. Authorization during time of war.*

*“Sec. 309. Definitions.*

*"TITLE IV—EFFECTIVE DATE*

*“Sec. 401. Effective Date.”*

(c) *EFFECTIVE DATE.*—The amendments made by sub-sections (a) and (b) shall take effect 90 days after the date of enactment of this Act, except that any physical search approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of title III of the Foreign Intelligence Surveillance Act of 1978 (as added by this Act), if that search is conducted within 180 days after the date of enactment of this Act pursuant to regulations issued by the Attorney General, which were in the possession of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives before the date of enactment of this Act.

14 SEC. 10. LESSER CRIMINAL OFFENSE FOR UNAUTHORIZED

## **15                  *REMOVAL OF CLASSIFIED DOCUMENTS.***

16           (a) *IN GENERAL.—Chapter 93 of title 18, United  
17 States Code, is amended by adding at the end the following  
18 new section:*

1   **“§1924. Unauthorized removal and retention of clas-**2                   **sified documents or material**

3       “(a) *IN GENERAL.*—Whoever, being an officer, em-  
 4   ployee, contractor, or consultant of the United States, and,  
 5   by virtue of his office, employment, position, or contract,  
 6   becomes possessed of documents or materials containing  
 7   classified information of the United States, knowingly re-  
 8   moves such documents or materials without authority and  
 9   with the intent to retain such documents or materials at  
 10   an unauthorized location shall be fined not more than  
 11   \$1,000, or imprisoned for not more than 1 year, or both.

12       “(b) *DEFINITION.*—In this section, the term ‘classified  
 13   information of the United States’ means information origi-  
 14   nated, owned, or possessed by the United States Government  
 15   concerning the national defense or foreign relations of the  
 16   United States that has been determined pursuant to law  
 17   or Executive order to require protection against unauthor-  
 18   ized disclosure in the interests of national security.”.

19       (b) *CLERICAL AMENDMENT.*—The table of sections at  
 20   the beginning of such chapter is amended by adding at the  
 21   end the following:

“1924. Unauthorized removal and retention of classified documents or material.”.

S 2056 RS——2

S 2056 RS——3

S 2056 RS——4

S 2056 RS——5

S 2056 RS—6



**Calendar No. 502**

103D CONGRESS  
2D SESSION  
**S. 2056**

**[Report No. 103-296]**

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**A BILL**

To amend the National Security Act of 1947 to improve the counterintelligence and security posture of the United States, and for other purposes.

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JUNE 30 (legislative day, JUNE 7), 1994

Reported with an amendment