

SENATE BILL REPORT

SJM 8020

As of March 1, 2005

Brief Description: Expressing concern about the USA PATRIOT Act.

Sponsors: Senators Kline, Hargrove, Finkbeiner, Kohl-Welles, Pridemore, Regala, Rockefeller, Shin, Jacobsen, Thibaudeau and Spanel.

Brief History:

Committee Activity: Judiciary: 3/1/05.

SENATE COMMITTEE ON JUDICIARY

Staff: Aldo Melchiori (786-7439)

Background: In response to the terrorist acts that occurred on September 11, 2001 and the fear that the United States was vulnerable to further acts of violence, Congress passed the USA PATRIOT Act of 2001. The federal act provides for many new criminal penalties, sanctions, and procedures for use in response to terrorists and those who offer them support. Congress is currently considering the Security and Freedom Ensured Act (SAFE Act).

The SAFE Act amends the USA PATRIOT Act to modify provisions regarding roving wiretaps under the Foreign Intelligence Surveillance Act of 1978 (FISA) to require that: (1) an order approving an electronic surveillance specify either the identity of the target or the place to be wiretapped; and (2) surveillance be conducted only when the suspect is present at the place to be wiretapped.

The SAFE Act also revises provisions governing covert entry search warrants authorized under the USA PATRIOT ACT to: (1) limit the authority to delay notice of the issuance of such a search warrant to circumstances where providing immediate notice of the warrant will endanger the life or physical safety of an individual, result in flight from prosecution, or result in the destruction of or tampering with the evidence sought under the warrant; and (2) require such delayed notification to be issued not later than seven days (currently, within a "reasonable period") after execution, with extensions by the court for additional periods of up to seven days each time that the court finds reasonable cause to believe that notice of the execution of the warrant would have such consequences. It also requires the Attorney General to report to Congress, every six months, summarizing the requests made by the Department of Justice for delays of notice and extensions of delays. The delayed notice authority and reporting requirement expires on December 31, 2005.

FISA is amended to require, with respect to access by the Federal Bureau of Investigation to business records for foreign intelligence and international terrorism investigations, that there be specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent. Finally, the SAFE Act provides that libraries must not be treated as wire or electronic communication service providers under provisions granting

counterintelligence access to provider subscriber information, toll billing records information, or electronic communication transactional records.

Summary of Bill: The Washington legislature affirms its opposition to global terrorism and also its commitment to the civil rights and civil liberties of all Washington residents. The Washington legislature requests that Congress adopt the SAFE Act.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Testimony For: It is important that Washington is heard on this issue. Four other states have adopted similar resolutions. The PATRIOT Act was enacted quickly at a time of fear and apprehension. The SAFE Act is intended to remedy some of the inconsistencies and overreaching provisions of the PATRIOT Act. We must carefully consider all restrictions on our basic civil rights. Laws passed in panic and fear without careful consideration are rarely good. Our country has faltered in the past when it forgot its ideals. The PATRIOT Act represents legislation that was passed at a time when we were not paying attention to our ideals.

Testimony Against: None.

Who Testified: PRO: Jennifer Shaw, ACLU-WA; Phillip Bevis, Arundel Books; Ian, Spiers; Steve Hamm, Jefferson County, Port Townsend BORDC; Heather Franks, ACLU-WA, Thurston County Chapter; Lois Walker; Den Mark Wichar, Vancouver for Peace; Dick Swearingen.