

The FISA Judge Selection Reform Act of 2013 – Summary

Senator Richard Blumenthal

The FISA Judge Selection Reform Act would promote geographically and ideologically balanced FISA courts that are better suited to reflect the full diversity of perspectives on questions of liberty and national security.

Changes to the FISA Court

The FISA Court is expanded to seat thirteen district court judges, one each from the thirteen federal circuits – the twelve regional circuits plus the Federal Circuit. The two new seats on the FISA Court are assigned to the DC Circuit and the Federal Circuit, and the existing seats are assigned in numerical order, starting with the First Circuit, according to the remaining duration of the current designee's term, starting with the shortest remaining duration.

The first designee to the Federal Circuit seat will serve a term of a maximum of four years, with each subsequent designee to the Federal Circuit seat serving a normal term of a maximum of seven years.

Upon a vacancy in the FISA Court, the Chief Judge of the circuit assigned to the vacant seat must nominate a candidate to fill the vacancy. The nominee must be an Article III district judge within the nominating Chief Judge's circuit. The Chief Justice may accept the nominee and designate him/her to the FISA Court or may reject the nominee and request two more nominees from the Chief Judge of the circuit. If the Chief Justice asks for two additional nominees, he must designate one of those two candidates to fill the vacancy.

Each judge serving on the FISA Court on the date of the enactment of this Act may complete his/her term.

Changes to the FISA Court of Review

Vacancies on the FISA Court of Review will be filled by Article III judges designated by the Chief Justice of the United States with the approval of five Associate Justices of the Supreme Court.

Judicial Conference Study

Within one year, the Committee on Intercircuit Assignments of the Judicial Conference of the United States must report to Congress on how to ensure judges are appointed to the FISA Court and FISA Court of Review in a manner that ensures that the FISA courts are diverse and representative.