

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1804

By: Adelson

AS INTRODUCED

An Act relating to search and seizure; stating legislative findings; amending 22 O.S. 2001, Section 1223, which relates to probable cause; prohibiting certain search or surveillance; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1222.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Legislature finds that:

1. The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (The USA PATRIOT Act) was enacted in response to the September 11, 2001, attacks.
2. The USA PATRIOT Act granted sweeping search and surveillance powers to domestic law enforcement, which seriously eroded the protection of individual privacy rights. These privacy rights have historically been protected by the courts to ensure that governmental powers are not abused.
3. The USA PATRIOT Act expands the ability of the state and federal government to conduct surveillance of American citizens. By way of illustration and not limitation, this surveillance includes the monitoring of an individual's internet use, the use of roving wiretaps to monitor phone calls, and the obtainment of financial, health and library records. All such surveillance may be carried out without notice to the individual or a showing of probable cause.

4. The USA PATRIOT Act also authorizes the use of "sneak and peek" search warrants in connection with any federal crime, including misdemeanors. A "sneak and peek" warrant allows law enforcement officers to enter private premises without the occupant's permission or knowledge and without informing the occupant that such a search was conducted.

5. Under Section 30 of Article 2 of the Oklahoma Constitution, "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches or seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, describing as particularly as may be the place to be searched and the person or thing to be seized."

SECTION 2. AMENDATORY 22 O.S. 2001, Section 1223, is amended to read as follows:

Section 1223. A. A search warrant shall not be issued except upon probable cause, supported by affidavit, naming or describing the person, and particularly describing the property and the place to be searched.

B. No governmental agency of this state shall conduct any search or surveillance of a citizen without probable cause, supported by affidavit, naming or describing the person and any records to be searched.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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