

The Digital Authenticity for Court Orders Act

In recent years, criminals have created counterfeit court orders which they have used to trick telecommunications and technology companies into performing illegal wiretaps and removing online content (e.g. unflattering online reviews). These criminals have been able to copy and paste a judge's signature from a scan of a valid court order into the counterfeit order.

Secure digital signature technology has existed for decades that could solve this problem. Digital signatures enable recipients of a digital document to verify that it was issued by an authorized entity and that it has not been tampered with or modified since it was digitally signed. This technology is mature and widely supported by commercial software such as Microsoft Word and pdf readers. Since 1998, federal agencies have been required to use digital signatures to conduct official business with the public. The legislative branch has also embraced digital signatures — every bill published on congress.gov is digitally signed by the Government Publishing Office. Moreover, as part of the 2021 NDAA, Congress required that the Cybersecurity and Infrastructure Agency include digital signatures in each subpoena it issues.

This bill will solve the problem of counterfeit court orders by requiring federal, state, and tribal courts to include a digital signature in each court order authorizing surveillance, domain seizures, and the removal of online content. This bill:

- Requires NIST to develop standards for digital signatures for court orders. Requires the Administrative Office of the Courts to certify and promulgate these standards. The standards will be updated every 5 years.
- Requires federal, state and tribal courts to digitally sign court orders. Federal courts will pilot the technology first, and all courts will have to adopt it, starting 4 years after the standards are complete.
- Requires the General Services Administration to offer, at no cost, a digital signature service to federal, state and tribal courts that do not want to develop or acquire their own digital signature technology.
- Provides grants to state and tribal courts to implement digital signatures.
- Provides immunity to telecommunications providers and technology companies that refuse to comply with court orders that lack a valid digital signature, as well as court costs & attorney fees.