

FISA AMENDMENTS ACT

The bipartisan Foreign Intelligence Surveillance Amendments Act of 2008 is a critically necessary modernization of the original FISA law (enacted in 1978), and replaces the controversial Protect America Act. It increases our nation's security by ensuring there is no gap in intelligence collection against terrorists, while protecting our civil liberties by preventing the government from surveilling our citizens without a lawful warrant. This bipartisan compromise also increases oversight of intelligence activities, rejects automatic immunity for telecommunications companies, and contains a 2012 sunset so that Congress can further improve it under the next Administration.

GIVES AMERICA'S INTELLIGENCE COMMUNITY THE TOOLS IT NEEDS

- Provides critically important authority for the U.S. Intelligence Community to acquire foreign intelligence information by targeting foreign persons reasonably believed to be outside the United States – thus protecting the American people.
- Ensures that the Intelligence Community has the flexibility and agility it requires to respond quickly to opportunities and needs within a global communication system.
- In an emergency, the government may authorize surveillance and apply to the FISA Court for approval within seven days.

PROTECTS CIVIL LIBERTIES, AND UPHOLDS CONSTITUTIONAL VALUES

- Clarifies that FISA and Title III of the criminal code are the exclusive means by which the government may conduct surveillance on U.S. soil. This will prevent any President from using executive power to conduct warrantless domestic surveillance.
- Clarifies that to conduct surveillance of a person in the United States, the government must first obtain an individual warrant from the FISA Court based on probable cause.
- Requires prior review and approval by the FISA Court of the targeting and minimization procedures to ensure that U.S. citizens are not targeted and that any inadvertently intercepted communications are not disseminated.
- Requires the government to establish guidelines to ensure that Americans are not the subject of surveillance through reverse targeting, which is when a foreigner is targeted with the intent of collecting information on an American they have contact with – without a warrant. The government is required to provide those reverse targeting guidelines to Congress and the FISA Court.
- Contains new legal protections for U.S. persons abroad, requiring an individual warrant for every American the government intends to surveil.
- Does not allow any warrantless domestic physical searches of homes, offices, etc. Requires that surveillance be conducted in accordance with the Fourth Amendment.

REJECTS AUTOMATIC IMMUNITY TO PRIVATE-SECTOR COMPANIES

- Allows federal district courts to determine whether substantial evidence supports civil liability protection for companies which assisted in post-9/11 activities, and puts the burden of proof on the companies. Provides liability protection for companies which provide lawful assistance to the government in the future.
- Does NOT confer immunity to any government official who may have violated the law.

STRENGTHENS OVERSIGHT OF INTELLIGENCE ACTIVITIES, 2012 SUNSET

- Requires the Inspectors General of DOJ, DNI, NSA, and DOD to conduct a review of the President's warrantless wiretapping program and provide those reviews to the Intelligence and Judiciary Committees.
- Requires extensive reporting to the Intelligence and Judiciary Committees on the use of this new authority and authorizes the Inspector General to investigate and audit surveillance conducted pursuant to this bill.
- Creates a substantive role for the FISA Court, providing meaningful Court review before surveillance begins.
- Allows Congress and the next Administration to revisit these issues before the bill's sunset date of December 31, 2012.