

FISA Amendments Act

Bill Summary
March 11, 2008

The revised House FISA legislation grants new authorities for conducting electronic surveillance against foreign targets, while preserving the requirement that the government obtain an individualized FISA court order, based on probable cause, when targeting Americans at home or abroad. The House bill also strongly enhances oversight of the Administration's surveillance activities. Finally, the House bill does not provide retroactive immunity for telecom companies but allows the courts to determine whether lawsuits should proceed.

Title 1: Surveillance Authorities

- Provides for surveillance of terrorist and other targets overseas who may be communicating with Americans.
- Requires the FISA court to approve *targeting and minimization procedures* – to ensure that Americans are not targeted and that their inadvertently intercepted communications are not disseminated. These procedures must be approved prior to surveillance beginning – except in an emergency, in which case the government may begin surveillance immediately, and the procedures must be approved by the court within 30 days. (This may be extended if the court determines it needs more time to decide the matter).
- Provides prospective liability protection for telecommunications companies that provide lawful assistance to the government.
- Requires a court order based on probable cause to conduct surveillance targeted at Americans, whether inside the U.S. or abroad.
- Requires an Inspector General report on the President's warrantless surveillance program.
- Prohibits "reverse targeting" of Americans.
- Explicitly establishes FISA Exclusivity – that FISA is the exclusive way to conduct foreign intelligence surveillance inside the U.S. Any other means requires an express statutory authorization.
- Sunsets these authorities on December 31, 2009 (same as the PATRIOT Act sunset).

Title 2: Litigation Procedures for Telecommunication Company Liability

- Does not confer retroactive immunity on telecom companies alleged to have assisted in the President's warrantless surveillance program.
- Provides telecom companies a way to present their defenses in secure proceedings in district court without the Administration using "state secrets" to block those defenses.

Title 3: National Commission on Warrantless Surveillance

- Establishes a bipartisan, National Commission – with subpoena power – to investigate and report to the American people on the Administration’s warrantless surveillance activities.