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By [Kerry Pickett](#) - *The Washington Times* - Monday, December 4, 2023

The House Judiciary Committee released new legislation Monday to overhaul the government's main electronic spying law, proposing new limits on who can access the trove of communications and demanding the [FBI](#) get a warrant if it wants to run Americans' identities through the database.

The bill would mark a significant rewrite of Section 702 of the Foreign Intelligence Surveillance Act, which authorizes the intelligence community to collect email and other electronic communications of non-Americans living abroad.

Lawmakers said the law currently allows the government to snare Americans' communications and to run queries on it.

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The new bill is an attempt to fix that. Foremost, it would require a warrant whenever the government wanted to use a U.S. person's identity for a search of the data. It also would limit who in the [FBI](#) can do the searches, and it would give new oversight tools to the secret court that keeps tabs on the law.

Violations of Section 702 would be punishable by up to eight years in prison.

The bill would include the "Fourth Amendment is Not for Sale Act," which prohibits law enforcement and intelligence agencies from buying personal data about customers or subscribers of electronic and remote computing service providers from a third party.

Lawmakers are rushing to meet an end-of-year deadline. If they don't renew Section 702 by then, it will expire, and intelligence community officials say they'll lose eyes on bad guys abroad such as terrorists, fentanyl smuggling cartels and aggressive Chinese maneuvers.

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But that has given significant power to a coalition of conservatives and liberals who say the program must be reformed before it's allowed to continue.

Rep. Andy Biggs, Arizona Republican, is the chief sponsor of the bipartisan legislation, which is titled "Protect Liberty and End Warrantless Surveillance Act." It will see its first action in the Judiciary Committee on Wednesday.

Co-sponsors include Judiciary Committee Chairman Jim Jordan of Ohio and top Democrat Jerrold Nadler of New York, as well as Democratic Reps. Sara Jacobs of California and Pramila Jayapal of Washington and Republican Reps. Warren Davidson of Ohio and Russell Fry of South Carolina.

The bill's protections apply to "U.S. persons" — that's any American citizen, no matter where they are, as well as any foreigner located in the U.S. The legislation would require a warrant based on the probable cause standard before an agency can query the data for law enforcement purposes.

[FBI](#)'s headquarters and field offices would have to designate specific people who can access the information, imposing another limit on how the government can use it.

The bill would include a three-year sunset for Section 702, giving the government a short leash.

Driving the changes are revelations this year that showed the [FBI](#) used FISA authority to probe people arrested during Black Lives Matter protests in 2020 and to query thousands of donors to a congressional

campaign.

The **FBI** also used FISA to try to see if there was foreign influence behind the riots at the Capitol on Jan. 6, 2021.

Most lawmakers on Capitol Hill seem to believe that some changes are needed, but there are competing visions.

A working group led by Rep. Darin LaHood, Illinois Republican and a member of the House Permanent Select Committee on Intelligence, has released a plan that would restrict the number of **FBI** personnel who can authorize a query of a U.S. person and require the **FBI** to obtain a warrant to conduct a query on Americans if they are seeking evidence of a crime.

It also would create criminal penalties for abuses, mandate independent audits of all **FBI** searches of U.S. persons in the 702 database and prohibit queries that would suppress Americans' political opinions or religious beliefs.

Intelligence committee members have said they don't think the Judiciary Committee lawmakers understand the importance of Section 702 in America's national security.

Senate Select Committee on Intelligence Chairman Mark R. Warner authored another bill that would limit some **FBI** powers in the FISA query process but would not require a warrant establishing probable cause to query digital communications.

Intel security officials say requiring a warrant would place an undue burden on those who would use it to spy on foreign adversaries.

The bill by Mr. Warner, Virginia Democrat, has buy-in from the Biden administration and both parties' members on the House Permanent Select Committee on Intelligence.

FBI Director Christopher A. Wray told Congress last month that requiring a warrant could slow down intelligence work, at a time when speed is critical.

"Agility and speed are of the essence and trying to get a warrant requirement at the front end in that stage is really a nonstarter," he said. "The delay that it would cause and prevent in allowing us to connect the dots, which is what's happening when our people are running us person queries would basically make the tool largely useless."

He also said the **FBI** has made its own improvements to training, has created an internal audit office and added a "pre-approval" requirement for some searches. The result is that warrantless searches of U.S. citizens' FISA data fell from 3.4 million in 2021 to 204,000 last year.

Mr. Wray has said he is open to Congress codifying his changes in law, but he doesn't want it to go much further.

He said 100% of the government's "technically sourced" information on Hamas right now comes from Section 702 collections.

"If we were to deliberately blind ourselves to that information, we are taking a wildly irresponsible risk in my view," he said.

House Speaker Mike Johnson said Congress may need to temporarily extend FISA as is to give lawmakers more time to rewrite it. The extension would be included in the must-pass annual Pentagon policy bill.

But a bipartisan coalition has said it would oppose that idea.

"A temporary extension would be entirely unnecessary and it would be an inexcusable violation of the public's trust to quietly greenlight an authority that has been flagrantly abused," the 54 lawmakers wrote in a letter to Mr. Johnson and other top congressional leaders.

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