

119TH CONGRESS  
2D SESSION

# S. 4738

To implement reforms relating to foreign intelligence surveillance authorities, protections relating to warrantless queries for the communications of United States persons, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 10, 2026

Mr. WYDEN introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

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## A BILL

To implement reforms relating to foreign intelligence surveillance authorities, protections relating to warrantless queries for the communications of United States persons, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. PROTECTIONS RELATING TO WARRANTLESS**  
4                       **QUERIES FOR THE COMMUNICATIONS OF**  
5                       **UNITED STATES PERSONS.**

6       (a) IN GENERAL.—Section 702(f) of the Foreign In-  
7       telligence Surveillance Act of 1978 (50 U.S.C. 1881a(f))  
8       is amended—

1           (1) in paragraph (1)(A), by inserting “and the  
2           limitations and requirements in this subsection”  
3           after “Constitution of the United States”;

4           (2) in paragraph (5)—

5                 (A) by striking subparagraph (B), and in-  
6                 serting the following:

7                     “(B) The term ‘covered information’  
8                     means—

9                         “(i) communications content; and

10                        “(ii) information, the compelled dis-  
11                        closure of which would require a probable  
12                        cause warrant if sought for law enforce-  
13                        ment purposes inside the United States.

14                     “(C) The term ‘covered person’ means—

15                         “(i) a United States person; or

16                         “(ii) a person reasonably believed to  
17                         be located in the United States—

18                         “(I) at the time of the applicable  
19                         query; or

20                         “(II) at the time of the commu-  
21                         nication or creation of the information  
22                         subject to the applicable query.

23                     “(D) The term ‘covered query’ means a  
24                     query that is conducted—

1 “(i) using any terms associated with 1  
2 or more covered persons; or

3 “(ii) for a significant purpose of de-  
4 tecting or retrieving information of or con-  
5 cerning 1 or more covered persons.

6 “(E) The term ‘query’—

7 “(i) means the use of any technique,  
8 whether manual or automated, to detect or  
9 retrieve information obtained through ac-  
10 quisitions authorized under subsection (a)  
11 from within a system, collection, or assort-  
12 ment of information, or a subset thereof;  
13 and

14 “(ii) does not include the manual ob-  
15 servation of retrieved information.”; and

16 (3) by striking paragraphs (2) and (3) and in-  
17 serting the following:

18 “(2) PROHIBITION ON WARRANTLESS ACCESS  
19 TO THE COMMUNICATIONS AND OTHER INFORMA-  
20 TION OF UNITED STATES PERSONS AND PERSONS  
21 LOCATED IN THE UNITED STATES.—

22 “(A) IN GENERAL.—Except as provided in  
23 subparagraphs (B) and (C), no officer or em-  
24 ployee of the Federal Government may access

covered information returned in response to a covered query.

“(B) EXCEPTIONS FOR CONCURRENT AUTHORIZATION, CONSENT, EMERGENCY SITUATIONS, AND CERTAIN DEFENSIVE CYBERSECURITY QUERIES.—

“(i) IN GENERAL.—Subparagraph (A) shall not apply if—

“(I) the covered person to whom the covered query relates is the subject of an order or emergency authorization authorizing electronic surveillance or physical search under section 105, 304, 703 or 704 of this Act, or a warrant issued pursuant to the Federal Rules of Criminal Procedure by a court of competent jurisdiction, if—

“(aa) such order, authorization, or warrant is active at the time the covered query is conducted;

“(bb) the covered query is conducted and covered information is accessed in compliance with all use, dissemination,

1 querying, retention, and other  
2 minimization limitations required  
3 by the order, authorization, or  
4 warrant; and

5 “(cc) with respect to an  
6 emergency authorization, the At-  
7 torney General makes or has  
8 made an application to the For-  
9 eign Intelligence Surveillance  
10 Court in accordance with section  
11 105, 304, 703 or 704, as applica-  
12 ble;

13 “(II)(aa) the officer or employee  
14 accessing the covered information has  
15 a reasonable belief that—

16 “(AA) an emergency exists  
17 involving an imminent threat of  
18 death or serious bodily harm; and

19 “(BB) in order to prevent or  
20 mitigate the threat described in  
21 item (aa), the covered informa-  
22 tion must be accessed before au-  
23 thorization described in clause (i)  
24 can, with due diligence, be ob-  
25 tained; and

1 “(bb) not later than 7 days after  
2 the covered information is accessed, a  
3 description of the circumstances justi-  
4 fying the accessing of the covered in-  
5 formation is provided to the Foreign  
6 Intelligence Surveillance Court, the  
7 congressional intelligence committees,  
8 the Committee on the Judiciary of the  
9 House of Representatives, and the  
10 Committee on the Judiciary of the  
11 Senate;

12 “(III) the covered person to  
13 whom the covered query relates or, if  
14 such person is incapable of providing  
15 consent, a third party legally author-  
16 ized to consent on behalf of such per-  
17 son, has provided consent for the ac-  
18 cess on a case-by-case basis; or

19 “(IV)(aa) the covered informa-  
20 tion is accessed and used for defensive  
21 cybersecurity purposes, including the  
22 protection of a covered person from  
23 cybersecurity attack;

24 “(bb) other than for such defen-  
25 sive cybersecurity purposes, no cov-

1           ered information is accessed or re-  
2           viewed; and

3                   “(cc) not later than 7 days after  
4           the covered information is accessed, a  
5           description of the circumstances justi-  
6           fying the accessing of the covered in-  
7           formation is provided to the Foreign  
8           Intelligence Surveillance Court, the  
9           congressional intelligence committees,  
10          the Committee on the Judiciary of the  
11          House of Representatives, and the  
12          Committee on the Judiciary of the  
13          Senate.

14                   “(ii) MATTERS RELATING TO EMER-  
15          GENCY QUERIES.—

16                   “(I) TREATMENT OF DENIALS OF  
17          APPLICATIONS AFTER EMERGENCY  
18          AUTHORIZATIONS.—If the Foreign In-  
19          telligence Surveillance Court denies an  
20          application described in clause  
21          (i)(I)(cc), the restrictions set forth in  
22          section        105(e)(5),        304(e)(5),  
23          703(d)(4), or 704(d)(4), as applicable,  
24          shall apply.

1                   “(II) FOREIGN INTELLIGENCE  
2 SURVEILLANCE COURT REVIEW OF  
3 EMERGENCY EXCEPTION.—

4                   “(aa) IN GENERAL.—Not  
5 later than 7 days after receipt of  
6 a description provided under  
7 clause (i)(II)(bb), the Foreign In-  
8 telligence Surveillance Court shall  
9 determine whether the criteria  
10 set forth in clause (i)(II)(aa)  
11 were met.

12                  “(bb) SUBMISSION.—The  
13 Foreign Intelligence Surveillance  
14 Court may require the submis-  
15 sion of any additional informa-  
16 tion the Court considers nec-  
17 essary to make the determination  
18 described in item (aa).

19                  “(cc) CRITERIA NOT MET.—  
20 If the Foreign Intelligence Sur-  
21 veillance Court determines that  
22 the criteria set forth in item (aa)  
23 of clause (i)(II) were not met, no  
24 information obtained or evidence  
25 derived from the accessing of

1 querying results shall be received  
2 in evidence, or otherwise dis-  
3 closed in any trial, hearing, or  
4 other proceeding in or before any  
5 court, grand jury, department,  
6 office, agency, regulatory body,  
7 legislative committee, or other  
8 authority of the United States, a  
9 State, or political subdivision  
10 thereof, and no information con-  
11 cerning any covered person ac-  
12 quired from accessing of the re-  
13 sults of the covered query shall  
14 subsequently be used or disclosed  
15 in any other manner by Federal  
16 officers or employees without the  
17 consent of such person, except  
18 with the approval of the Attorney  
19 General if the information indi-  
20 cates a threat of death or serious  
21 bodily harm to any person.

22 “(dd) SUBMISSIONS TO CON-  
23 GRESS.—Not later than 7 days  
24 after the determination described  
25 in item (aa) is made, a copy of

1 such determination shall be pro-  
 2 vided to the congressional intel-  
 3 ligence committees, the Com-  
 4 mittee on the Judiciary of the  
 5 House of Representatives, and  
 6 the Committee on the Judiciary  
 7 of the Senate.

8 “(iii) ASSESSMENT OF COMPLI-  
 9 ANCE.—Not less frequently than once each  
 10 year, the Attorney General shall assess  
 11 compliance with the requirements under  
 12 subclauses (I)(cc) and (II)(bb) of clause (i)  
 13 and subclauses (I) and (II)(cc) of clause  
 14 (ii).

15 “(C) FOREIGN INTELLIGENCE PURPOSE  
 16 REQUIRED FOR QUERIES.—

17 “(i) IN GENERAL.—Except as pro-  
 18 vided in clause (ii), no officer or employee  
 19 of the Federal Government may conduct a  
 20 query unless the query is—

21 “(I) reasonably likely to retrieve  
 22 foreign intelligence information; and

23 “(II) is made with a significant  
 24 foreign intelligence purpose.

1           “(ii) EXCEPTIONS.—An officer or em-  
2           ployee of the Federal Bureau of Investiga-  
3           tion may conduct a query if—

4                   “(I)(aa) the officer or employee  
5                   conducting the query has a reasonable  
6                   belief that—

7                           “(AA) an emergency exists  
8                           involving an imminent threat of  
9                           death or serious bodily harm; and

10                           “(BB) the query could rea-  
11                           sonably be expected to assist in  
12                           mitigating or eliminating that  
13                           threat to life or serious bodily  
14                           harm; and

15                   “(bb) not later than 7 days after  
16                   the query is conducted, a description  
17                   of the query is provided to the For-  
18                   eign Intelligence Surveillance Court,  
19                   the congressional intelligence commit-  
20                   tees, the Committee on the Judiciary  
21                   of the House of Representatives, and  
22                   the Committee on the Judiciary of the  
23                   Senate; or

24                   “(II) the query is necessary to  
25                   identify information that must be pro-

1           duced or preserved in connection with  
 2           a litigation matter or to fulfill dis-  
 3           covery obligations in a criminal matter  
 4           under the laws of the United States  
 5           or any State.

6           “(iii) RULE OF CONSTRUCTION.—

7           Nothing in this subparagraph shall be con-  
 8           strued to limit any oversight or training  
 9           activities required under any other provi-  
 10          sion of law.

11          “(3) REQUIRED DOCUMENTATION AND QUERY

12          RECORD SYSTEM.—

13           “(A) DOCUMENTATION.—No officer or em-  
 14           ployee of the Federal Government may conduct  
 15           a query, or access covered information returned  
 16           in response to a covered query, unless an elec-  
 17           tronic record is created that includes—

18           “(i) for each query—

19           “(I) each term used for the con-  
 20           duct of the query;

21           “(II) the date of the query;

22           “(III) the identifier of the officer  
 23           or employee who conducted the query;  
 24           and

1                   “(IV) a statement of facts justifying that the query is reasonably  
2                   likely to retrieve foreign intelligence  
3                   information and the significant foreign intelligence purpose for the query  
4                   or, if an exception under subparagraph (D)(ii) applies, a description of  
5                   the basis for such exception; and  
6                   “(ii) for each access—  
7                   “(I) the date of the access;  
8                   “(II) the identifier of the officer  
9                   or employee who did the particular access; and  
10                   “(III) a statement of facts showing that an access is authorized by an  
11                   exception under subparagraph (B).  
12                   “(B) QUERY RECORD SYSTEM.—Each head  
13                   of an agency who is authorized to conduct a  
14                   covered query shall ensure that a system, mechanism, or business practice is in place to maintain the records described in subparagraph (A),  
15                   including ensuring that any queries or accesses to covered information returned in response to  
16                   covered queries, that are conducted by automated means are attributed to the officer or  
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1 employee who was the proximate cause of such  
2 query or access.”.

3 (b) REPORT ON COMPLIANCE WITH QUERY RECORD  
4 SYSTEM REQUIREMENT.—Not later than 90 days after  
5 the date of enactment of this Act, each head of a Federal  
6 agency described in section 702(f)(3)(B) of such Act, as  
7 added by subsection (a), shall submit to the congressional  
8 intelligence committees, the Committee on the Judiciary  
9 of the House of Representatives, and the Committee on  
10 the Judiciary of the Senate a report on the compliance  
11 of the Federal agency with the requirement of such sec-  
12 tion.

13 (c) CONFORMING AMENDMENTS.—Section 702(f) of  
14 such Act, as amended by subsection (a), is further amend-  
15 ed—

16 (1) in the headings for subparagraph (B) of  
17 paragraph (1), subparagraph (A) of paragraph (2),  
18 and subparagraph (A) of paragraph (3), by striking  
19 “UNITED STATES PERSON” each place it appears  
20 and inserting “COVERED PERSON”;

21 (2) in paragraph (6)—

22 (A) in the heading, by striking “NON-  
23 UNITED STATES PERSONS” and inserting “NON-  
24 COVERED PERSONS”; and

1 (B) by striking “non-United States per-  
 2 sons” and inserting “noncovered persons”; and  
 3 (3) in paragraphs (1) through (6), by striking  
 4 “United States person” each place it appears and  
 5 inserting “covered person”.

6 **SEC. 2. NINE-MONTH EXTENSION OF SECTION 702 OF THE**  
 7 **FOREIGN INTELLIGENCE SURVEILLANCE**  
 8 **ACT.**

9 (a) EXTENSION OF REPEAL DATE OF TITLE VII.—  
 10 Section 403(b) of the FISA Amendments Act of 2008  
 11 (Public Law 110–261) is amended—

12 (1) in paragraph (1) (50 U.S.C. 1881 note), by  
 13 striking “June 12, 2026” and inserting “March 12,  
 14 2027”; and

15 (2) in paragraph (2) (18 U.S.C. 2511 note), in  
 16 the matter preceding subparagraph (A), by striking  
 17 “June 12, 2026” and inserting “March 12, 2027”.

18 (b) EFFECTIVE DATE.—The amendment made by  
 19 this section shall take effect on the earlier of the date of  
 20 the enactment of this Act or June 11, 2026.

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