

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.

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

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

(2) in paragraph (5)—

(A) by striking subparagraph (B), and inserting the following:

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

“(i) communications content; and

“(ii) information, the compelled disclosure of which would require a probable cause warrant if sought for law enforcement purposes inside the United States.

“(C) The term ‘covered person’ means—

“(i) a United States person; or

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

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

“(II) at the time of the communication or creation of the information subject to the applicable query.

“(D) The term ‘covered query’ means a 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 justi-
2 fying that the query is reasonably
3 likely to retrieve foreign intelligence
4 information and the significant for-
5 eign intelligence purpose for the query
6 or, if an exception under subpara-
7 graph (D)(ii) applies, a description of
8 the basis for such exception; and
9 “(ii) for each access—
10 “(I) the date of the access;
11 “(II) the identifier of the officer
12 or employee who did the particular ac-
13 cess; and
14 “(III) a statement of facts show-
15 ing that an access is authorized by an
16 exception under subparagraph (B).
17 “(B) QUERY RECORD SYSTEM.—Each head
18 of an agency who is authorized to conduct a
19 covered query shall ensure that a system, mech-
20 anism, or business practice is in place to main-
21 tain the records described in subparagraph (A),
22 including ensuring that any queries or accesses
23 to covered information returned in response to
24 covered queries, that are conducted by auto-
25 mated means are attributed to the officer or

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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