

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 7888) TO REFORM THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978; PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 529) TO EXTEND THE CUSTOMS WATERS OF THE UNITED STATES FROM 12 NAUTICAL MILES TO 24 NAUTICAL MILES FROM THE BASELINES OF THE UNITED STATES, CONSISTENT WITH PRESIDENTIAL PROCLAMATION 7219; PROVIDING FOR CONSIDERATION OF THE RESOLUTION (H. RES. 1112) DENOUNCING THE BIDEN ADMINISTRATION'S IMMIGRATION POLICIES; AND PROVIDING FOR CONSIDERATION OF THE RESOLUTION (H. RES. 1117) OPPOSING EFFORTS TO PLACE ONE SIDED PRESSURE ON ISRAEL WITH RESPECT TO GAZA

APRIL 12, 2024.—Referred to the House Calendar and ordered to be printed

Mr. MASSIE, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1137]

The Committee on Rules, having had under consideration House Resolution 1137, by a record vote of 8 to 4, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 7888, the Reforming Intelligence and Securing America Act, under a structured rule. The resolution waives all points of order against consideration of the bill. The resolution provides one hour of general debate equally divided among and controlled by the chair and ranking minority member of the Committee on the Judiciary or their respective designees and the chair and ranking minority member of the Permanent Select Committee on Intelligence or their respective designees. The resolution provides that an amendment in the nature of a substitute consisting of the text of Rules Committee Print 118-27 shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution makes in order only those amendments printed in the report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an

opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question. All points of order against the amendments printed in the report are waived. The resolution provides for one motion to recommit. The resolution further provides for consideration of H.R. 529, the Extending Limits of U.S. Customs Waters Act, under a closed rule. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill shall be considered as adopted and the bill, as amended, shall be considered as read. The resolution waives all points of order against provisions in the bill, as amended. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means or their respective designees. The resolution provides for one motion to recommit. The resolution further provides for consideration of H. Res. 1112, Denouncing the Biden administration's immigration policies, under a closed rule. The resolution provides that upon adoption of the resolution it shall be in order without intervention of any point of order to consider H. Res. 1112. The resolution provides that H. Res. 1112 shall be considered as read. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary or their respective designees. The resolution further provides for consideration of H. Res. 1117, Opposing efforts to place one-sided pressure on Israel with respect to Gaza, under a closed rule. The resolution provides that upon adoption of the resolution it shall be in order without intervention of any point of order to consider H. Res. 1117. The resolution provides that H. Res. 1117 shall be considered as read. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Foreign Affairs or their respective designees.

EXPLANATION OF WAIVERS

The waiver of all points of order against consideration of H.R. 7888 includes:

—Clause 12 of rule XXI, which prohibits consideration of a bill pursuant to a special order of business reported by the Committee on Rules that has not been reported by a committee.

Although the resolution waives all points of order against provisions in H.R. 7888, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in the report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H.R. 529, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against provisions in H.R. 529, as amended, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H. Res. 1112, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against consideration of H. Res. 1117, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 214

Motion by Mr. Massie to report the rule. Adopted: 8–4

Majority Members	Vote	Minority Members	Vote
Mr. Reschenthaler	Yea	Mr. McGovern	Nay
Mrs. Fischbach	Yea	Ms. Scanlon	Nay
Mr. Massie	Yea	Mr. Neguse	Nay
Mr. Norman	Yea	Ms. Leger Fernandez	Nay
Mr. Roy	Yea		
Mrs. Houchin	Yea		
Mr. Langworthy	Yea		
Mr. Austin Scott	Yea		
Mr. Burgess, Chairman	Yea		

SUMMARY OF THE AMENDMENTS TO H.R. 7888 MADE IN ORDER

1. Biggs (AZ), Jayapal (WA), Jordan (OH), Nadler (NY), Davidson (OH), Lofgren (CA): Prohibits warrantless searches of U.S. person communications in the FISA 702 database, with exceptions for imminent threats to life or bodily harm, consent searches, or known cybersecurity threat signatures. (10 minutes)

2. Roy (TX): Requires the FBI to report to Congress on a quarterly basis the number of U.S. person queries conducted. Additionally, grants the Chairs and Ranking Members of the Committees on Judiciary and Intelligence in the House and Senate, in addition to the Majority and Minority Leaders of the Senate, the Speaker of the House, and the Minority Leader of the House, access to attend FISC proceedings. (10 minutes)

3. Cline (VA), Jackson Lee (TX), Biggs (AZ), Issa (CA): Prohibits the resumption of “abouts” collection under Section 702. (10 minutes)

4. Crenshaw (TX), Houlihan (PA), McCaul (TX), Crawford (AR), Ellzey (TX), Turner (OH), Gonzalez, Vicente (TX), Golden (ME), Trone (MD), Fitzpatrick (PA), Gottheimer (NJ), Auchincloss (MA), Waltz (FL): Aids in the targeting of international narcotics trafficking operations with Section 702 by updating the definition of foreign intelligence. (10 minutes)

5. Waltz (FL), Crenshaw (TX): Enables the use of Section 702 information to vet foreigners traveling to the United States. (10 minutes)

6. Turner (OH), Himes (CT): Remedies a serious intelligence loophole by narrowly updating the definition of electronic communication service provider under Section 702. (10 minutes)

TEXT OF AMENDMENTS TO H.R. 7888 MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BIGGS OF ARIZONA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 14, strike line 8 and all that follows through line 10 on page 15, and insert the following:

(a) PROHIBITION ON WARRANTLESS QUERIES FOR THE COMMUNICATIONS OF UNITED STATES PERSONS.—Section 702(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(f))—

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

(2) by redesignating paragraph (3) as paragraph (7); and

(3) by striking paragraph (2) and inserting the following:

“(2) PROHIBITION ON WARRANTLESS QUERIES FOR THE COMMUNICATIONS AND OTHER INFORMATION OF UNITED STATES PERSONS.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no officer or employee of the United States may conduct a query of information acquired under this section for the purpose of finding communications or information the compelled production of which would require a probable cause warrant if sought for law enforcement purposes in the United States, of a United States person.

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

“(i) IN GENERAL.—Subparagraph (A) shall not apply to a query related to a United States person if—

“(I) such person is the subject of an order or emergency authorization authorizing electronic surveillance or physical search under section 105 (50 U.S.C. 1805) or section 304 (50 U.S.C. 1824) of this Act, or a warrant issued pursuant to the Federal Rules of Criminal Procedure by a court of competent jurisdiction;

“(II)(aa) the officer or employee conducting the query has a reasonable belief that—

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

“(BB) in order to prevent or mitigate the threat described in subitem (AA), the query must be conducted before authorization described in subclause (I) can, with due diligence, be obtained; and

“(bb) a description of the query is provided to the Foreign Intelligence Surveillance Court and the congressional intelligence committees and the Committees on the Judiciary of the House of Representatives and of the Senate in a timely manner;

“(III) such person or, if such person is incapable of providing consent, a third party legally authorized to consent on behalf of such person, has pro-

vided consent to the query on a case-by-case basis;
or

“(IV)(aa) the query uses a known cybersecurity threat signature as a query term;

“(bb) the query is conducted, and the results of the query are used, for the sole purpose of identifying targeted recipients of malicious software and preventing or mitigating harm from such malicious software;

“(cc) no additional contents of communications acquired as a result of the query are accessed or reviewed; and

“(dd) each such query is reported to the Foreign Intelligence Surveillance Court.

“(ii) LIMITATIONS.—

“(I) USE IN SUBSEQUENT PROCEEDINGS.—No information acquired pursuant to a query authorized under clause (i)(II) or information derived from the information acquired pursuant to such query may be used, received in evidence, or otherwise disseminated in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, except in a proceeding that arises from the threat that prompted the query.

“(II) ASSESSMENT OF COMPLIANCE.—Not less frequently than annually, the Attorney General shall assess compliance with the requirements under subclause (I).

“(C) MATTERS RELATING TO EMERGENCY QUERIES.—

“(i) TREATMENT OF DENIALS.—In the event that a query for communications or information, the compelled production of which would require a probable cause warrant if sought for law enforcement purposes in the United States, of a United States person is conducted pursuant to an emergency authorization described in subparagraph (B)(i)(I) and the subsequent application for such surveillance pursuant to section 105(e) (50 U.S.C. 1805(e)) or section 304(e) (50 U.S.C. 1824(e)) of this Act is denied, or in any other case in which the query has been conducted in violation of this paragraph—

“(I) no information acquired or evidence derived from such query may be used, received in evidence, or otherwise disseminated in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof; and

“(II) no information concerning any United States person acquired from such query may subsequently be used or disclosed in any other man-

ner without the consent of such person, except in the case that the Attorney General approves the use or disclosure of such information in order to prevent death or serious bodily harm to any person.

“(ii) ASSESSMENT OF COMPLIANCE.—Not less frequently than annually, the Attorney General shall assess compliance with the requirements under clause (i).

“(D) FOREIGN INTELLIGENCE PURPOSE.—Except as provided in subparagraph (B)(i)(II)-(IV), no officer or employee of the United States may conduct a query of information acquired under this section for the purpose of finding information of a United States person unless the query is reasonably likely to retrieve foreign intelligence information.

“(3) DOCUMENTATION.—No officer or employee of the United States may conduct a query of information acquired under this section for the purpose of finding information of or about a United States person, unless an electronic record is created that includes the following:

“(A) Each term used for the conduct of the query.

“(B) The date of the query.

“(C) The identifier of the officer or employee.

“(D) A statement of facts showing that the use of each query term included under subparagraph (A)—

“(i) falls within an exception specified in paragraph (2)(B)(i); and

“(ii) is—

“(I) reasonably likely to retrieve foreign intelligence information; or

“(II) in furtherance of an exception described in subclauses (II) through (IV) of paragraph (2)(B)(i).

“(4) QUERY RECORD SYSTEM.—The head of each agency that conducts queries shall ensure that a system, mechanism, or business practice is in place to maintain the record described in paragraph (3). Not later than 90 days after enactment of this paragraph, the head of each agency shall report to Congress on its compliance with this procedure.

“(5) PROHIBITION ON RESULTS OF METADATA QUERY AS A BASIS FOR ACCESS TO COMMUNICATIONS AND OTHER PROTECTED INFORMATION.—If a query of information acquired under this section is conducted for the purpose of finding communications metadata of a United States person and the query returns such metadata, the communications content associated with the metadata may not be reviewed except as provided under paragraph (2)(B)(i) of this subsection.

“(6) FEDERATED DATASETS.—The prohibitions and requirements under this subsection shall apply to queries of federated and mixed datasets that include information acquired under this section, unless each agency has established a system, mechanism, or business practice to limit the query to information not acquired under this section.”

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ROY OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 23, insert after line 17 the following:

(d) MEMBER ACCESS TO THE FOREIGN INTELLIGENCE SURVEILLANCE COURT AND FOREIGN INTELLIGENCE SURVEILLANCE COURT OF REVIEW.—The chair and ranking minority member of each of the congressional intelligence committees, the chairs and ranking members of the Committees on the Judiciary of the House of Representatives and of the Senate, the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives shall be entitled to attend any proceeding of the Foreign Intelligence Surveillance Court or any proceeding of the Foreign Intelligence Surveillance Court of Review. Each person entitled to attend a proceeding pursuant to this paragraph may designate not more than 2 staff members of such committee or office to attend on their behalf, pursuant to such procedures as the Attorney General, in consultation with the Director of National Intelligence may establish.

Page 45, strike line 16 and all that follows through line 17, and insert the following:

SEC. 11. ANNUAL REPORT OF THE FEDERAL BUREAU OF INVESTIGATION AND QUARTERLY REPORT TO CONGRESS.

Page 48, line 14, insert after “the report.” the following:

“(3) QUARTERLY REPORT.—Beginning on the date that is not later than 1 year after the effective date of this paragraph, the Director of the Federal Bureau of Investigation shall submit a quarterly report to the congressional intelligence committees and to the Committees on the Judiciary of the House of Representatives and of the Senate that includes the number of U.S. person queries conducted during that quarter.”.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CLINE OF VIRGINIA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end the following:

SEC. ____ . REPEAL OF AUTHORITY FOR THE RESUMPTION OF ABOUTS COLLECTION.

(a) IN GENERAL.—Section 702(b)(5) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(b)(5)) is amended by striking “, except as provided under section 103(b) of the FISA Amendments Reauthorization Act of 2017”.

(b) CONFORMING AMENDMENTS.—

(1) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—Section 702(m) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(m)) is amended—

(A) in the subsection heading, by striking “REVIEWS, AND REPORTING” and inserting “AND REVIEWS”; and

(B) by striking paragraph (4).

(2) FISA AMENDMENTS REAUTHORIZATION ACT OF 2017.—Section 103 of the FISA Amendments Reauthorization Act of 2017 (Public Law 115–118; 50 U.S.C. 1881a note) is amended—

(A) by striking subsection (b); and

(B) by striking “(a) IN GENERAL.—”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CRENSHAW OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end the following new section:

SEC. ____ . INCLUSION OF COUNTERNARCOTICS IN DEFINITION OF FOREIGN INTELLIGENCE.

Section 101(e)(1) is amended—

(1) in subparagraph (B), by striking “; or” and inserting a semicolon; and

(2) by adding at the end the following new subparagraph:

“(D) international production, distribution, or financing of illicit synthetic drugs, opioids, cocaine, or other drugs driving overdose deaths, or precursors of any aforementioned; or”.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE WALTZ OF FLORIDA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end the following new section:

SEC. ____ . VETTING OF NON-UNITED STATES PERSONS.

Subsection (f) of section 702, as amended by this Act, is further amended by adding at the end the following new paragraph:

“(6) VETTING OF NON-UNITED STATES PERSONS.—For any procedures for one or more agencies adopted under paragraph (1)(A), the Attorney General, in consultation with the Director of National Intelligence, shall ensure that the procedures enable the vetting of all non-United States persons who are being processed for travel to the United States using terms that do not qualify as United States person query terms under this Act.”.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TURNER OF OHIO OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Add at the end the following new section:

SEC. ____ . DEFINITION OF ELECTRONIC COMMUNICATION SERVICE PROVIDER.

(a) Section 701(b)(4) is amended—

(1) by redesignating subparagraph (E) as subparagraph (F);

(2) in subparagraph (D), by striking “; or” and inserting a semicolon;

(3) by inserting after subparagraph (D) the following new subparagraph:

“(E) any other service provider who has access to equipment that is being or may be used to transmit or store wire or electronic communications, but not including any entity that serves primarily as—

“(i) a public accommodation facility, as that term is defined in section 501(4);

“(ii) a dwelling, as that term is defined in section 802 of the Fair Housing Act (42 U.S.C. 3602);

“(iii) a community facility, as that term is defined in section 315 of the Defense Housing and Community

Facilities and Services Act of 1951 (42 U.S.C. 1592n);
or

“(iv) a food service establishment, as that term is defined in section 281 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638); or”;

(4) in subparagraph (F), as redesignated—

(A) by inserting “custodian,” after “employee,”;

(B) by striking “or” before “(D)”;

(C) by inserting “, or (E)” after “(D)”.

(b) Paragraph (6) of section 801 of the Foreign Intelligence Surveillance Act of 1978 is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively;

(2) in subparagraph (F), as redesignated, by striking “; or” and inserting a semicolon;

(3) by inserting after subparagraph (D) the following new subparagraph:

“(E) any other service provider who has access to equipment that is being or may be used to transmit or store wire or electronic communications, but not including any entity that serves primarily as—

“(i) a public accommodation facility, as that term is defined in section 501(4);

“(ii) a dwelling, as that term is defined in section 802 of the Fair Housing Act (42 U.S.C. 3602);

“(iii) a community facility, as that term is defined in section 315 of the Defense Housing and Community Facilities and Services Act of 1951 (42 U.S.C. 1592n);
or

“(iv) a food service establishment, as that term is defined in section 281 of the Agricultural Marketing Act of 1946 (7 U.S.C. 1638);”;

(4) in subparagraph (G), as redesignated—

(A) by inserting “custodian,” after “employee,”;

(B) by striking “or” before “(E)”;

(C) by inserting “, or (F)” after “(E)”.