

# **FISA AMENDMENTS ACT:** **FREQUENTLY ASKED QUESTIONS**

***Why do we need to pass a FISA law, shouldn't we just wait for a Democratic President and get a better law?***

In order to prevent any gap in intelligence collection that could weaken our national security, a bill must be passed by August, when warrants issued under the Protect America Act will begin to expire.

***Are my civil liberties protected?***

Yes. In order to conduct surveillance of any U.S. citizen, the government must obtain an individual warrant from the FISA Court. This bill also clarifies that FISA and Title III of the criminal code are the exclusive means by which the government may conduct surveillance on U.S. soil – thus stopping any President from invoking executive power to conduct warrantless surveillance of Americans. The bill also requires the government to establish guidelines to ensure Americans are not the subject of surveillance through reverse targeting.

***Will the telecommunications companies receive blanket retroactive immunity?***

No. District Courts will review the cases and determine whether or not there is substantial evidence to support liability protection for private-sector companies. All parties to the lawsuit will be able to provide information to the Courts to support their case. Additionally, no government official is given immunity for violating the law.

***Will the intelligence community have all the tools it needs to keep our nation safe?***

Yes. This bill provides critically important authority to the intelligence community to allow it to collect intelligence from foreign persons believed to be outside the U.S. It also provides necessary flexibility for quick action in the case of emergencies.

***What are the key provisions?***

- Replaces the Protect America Act, enacted in August 2007.
- Requires individual warrant from the FISA Court, based upon probable cause, to conduct surveillance of U.S. persons anywhere in the world.
- Clarifies that FISA and Title III of the criminal code are the exclusive means by which the government may conduct surveillance on U.S. soil.
- Requires the Inspectors General (IG) of DOJ, DNI, NSA, and DOD to conduct a comprehensive review of the President's warrantless surveillance program and provide those reviews to the Intelligence and Judiciary Committees.
- Requires prior review and approval by the FISA Court of the targeting and minimization procedures used to conduct surveillance of any foreign targets. In an emergency, the government may authorize surveillance and apply to the FISA Court for approval within seven days.
- Requires the government to establish guidelines to ensure that Americans are not targeted by this surveillance, and requires the government to provide those reverse targeting guidelines to Congress and the FISA Court.

- Provides civil liability protection for private sector companies who provide lawful assistance to the government in the future; and allows U.S. District Courts to review the actions of companies that assisted in post-9/11 intelligence activities to determine whether substantial evidence supports civil liability protection for those actions. This provision does NOT confer immunity on any government official for violating the law.
- Sunsets on December 31, 2012.

***How is this different than the Senate bill?***

Unlike the Senate bill, this bill will: Require prior FISA Court approval of targeting and minimization procedures, which the Senate bill did not; state unequivocally that FISA and Title III are the exclusive means to conduct surveillance domestically; include robust IG reviews of the President's warrantless surveillance program that will be provided to Congress; eliminate a "carve-out" of the definition of electronic surveillance; require the government to establish Reverse Targeting Guidelines and to provide those guidelines to the FISA Court and to Congress; empower U.S. District Courts to make the final determinations as to who may be entitled to civil liability protection.

***How is this bill better than the original FISA?***

Unlike the original 1978 FISA law, this bill clearly establishes that FISA and Title 3 of the criminal code are the exclusive means for conducting surveillance inside the United States; requires court review for all surveillance of U.S. persons outside the United States. Current law only requires approval from the Attorney General for such surveillance; and requires extensive reporting to Congress on the conduct of surveillance and proceedings before the FISA Court.