

CONGRESS

Senate passes bill renewing key FISA surveillance power moments after it expires

The bill now goes to President Joe Biden, whose administration says FISA's warrantless spying power is vital to national security. Amendments to expand privacy safeguards failed.



— Congress renewed Section 702 at the last minute. Chip Somodevilla / Getty Images

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WASHINGTON – The Senate voted to reauthorize a powerful surveillance tool the U.S. government describes as critical to combating terrorism, after defeating efforts by civil liberties advocates on the left and right to rein it in.

The vote of 60-34 sends the bill to President Joe Biden, who has championed it. The legislation extends [Section 702 of the Foreign Intelligence Surveillance Act](#), or FISA, for two more years.

The final vote came after the Senate defeated six amendments from progressive and conservative senators who said the spying powers are too broad and demanded protections for Americans' civil liberties and privacy. The Biden administration and FISA supporters had warned that even a brief lapse could have a detrimental impact on the intelligence-gathering process.

Senators just missed the midnight deadline to reauthorize the FISA Section 702 statute but voted to reauthorize it minutes later. Had any amendments been adopted, the bill would have been sent back to the House, potentially forcing a lengthy lapse of the law.

"In the nick of time, bipartisanship has prevailed here in the Senate," Senate Majority Leader Chuck Schumer, D-N.Y., said.

"It wasn't easy, people had many different views, but we all know one thing: letting FISA expire would have been dangerous. It's an important part of our national security to stop acts of terror, drug trafficking, and violent extremism," Schumer said on the Senate floor. "Thank you to all my Senate colleagues on both sides of the aisle for their good work in getting this done."

The House [passed a two-year FISA renewal](#) last week after defeating, by the slimmest of margins, an amendment to require a warrant to search through the communications of Americans as part of data collected while surveilling foreigners. Senators delayed a vote for days by pushing for amendments to make changes to the bill.

The bill's passage came on the heels of a pitched battle between the U.S. intelligence community and an unusual coalition of progressive and conservative civil liberties advocates, who argued that the powers are too expansive and impinge on the privacy of Americans.

"It's important that people understand how sweeping this bill is," said Sen. Ron Wyden, D-Ore., a member of the Intelligence Committee and outspoken proponent of privacy protections.

"Something was inserted at the last minute, which would basically compel somebody like a cable guy to spy for the government. They would force the person to do it and there would be no appeal."

In a rare break with Schumer and Biden, Sen. Patty Murray, D-Wash., the president pro tempore, opposed the bill, saying: “I have strong concerns that this expansion of FISA Section 702 authorities would allow for increased abuse and misuse of the law – infringing on the rights of Americans here at home.”

Senate Intelligence Committee Chair Mark Warner, D-Va., pushed back on that and other criticisms of a House amendment added to the FISA reauthorization bill, arguing that it “is narrowly focused on a significant intelligence gap,” but some members like Wyden worry it could be abused.

“Contrary to what some have been saying, it expressly excludes coffee shops, bars, restaurants, residences, hotels, libraries, recreational facilities and a whole litany of similar establishments,” Warner said on the Senate floor Wednesday. “It also absolutely would not, as some critics have maintained, allow the U.S. government to compel, for example, a janitor working in an office building in Northern Virginia to spy for the intelligence community.”

Warner said that allowing FISA to expire would have put the U.S. in “uncharted territory” as companies who work with the government to provide intelligence might have stopped doing so without a reauthorization.

Sen. John Cornyn, R-Texas, said that “60% of the president’s daily brief is composed of 702-derived materials, so this is absolutely critical.”

Attorney General Merrick Garland called Section 702 “indispensable” in a statement.

“This reauthorization of Section 702 gives the United States the authority to continue to collect foreign intelligence information about non-U.S. persons located outside the United States, while at the same time codifying important reforms the Justice Department has adopted to ensure the protection of Americans’ privacy and civil liberties,” he said.



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