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Due Process Institute Encouraged by Bipartisan Collaboration to Improve and Pass the USA FREEDOM Reauthorization Act of 2020

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Today, the Senate successfully passed the USA FREEDOM Reauthorization Act, which includes multiple reforms to the mass warrantless surveillance that Americans are subjected to under the Foreign Intelligence Surveillance Act (FISA). Specifically, the amended Senate version of this Act would:

- end authorization for the NSA’s constitutionally questionable Call Detail Records program;
- require a warrant for cell site location and GPS information;
- require a warrant for anything in which a person would hold a “reasonable expectation of privacy”;
- limit the use of information collected through FISA in traditional criminal or civil court hearings, trials, and proceedings;
- limit retention of the significant amount of information the government collects under Section 215 of the Patriot Act;
- improve the transparency and oversight of FISA activities; and
- strengthen third-party oversight of federal agency activities allowed under FISA (thanks to an amendment co-sponsored by Senators Mike Lee and Patrick Leahy).

These reforms are all important improvements on current law and have served as the cornerstone of Due Process Institute’s legislative advocacy on these issues. Unfortunately, an amendment co-sponsored by Senators Ron Wyden and Steve Daines, which would have required federal agencies to secure a warrant before they collect internet search and browsing histories inside the United States, failed by one vote.

“The USA FREEDOM Reauthorization Act could have been significantly improved by the inclusion of a bipartisan amendment from Senators Wyden and Daines that would have protected Americans’ private internet histories from warrantless government surveillance, but the version that the Senate has passed is still a significant improvement over the current laws that undermine due process rights,” said Shana-Tara O’Toole, Founder and President of Due Process Institute. “We are encouraged that Senate leaders crossed their respective political aisles to work together on important reforms that begin to better protect constitutional rights and still allow our government to do the important work of maintaining national security. We urge the House to promptly pass this legislation to ensure that America’s surveillance laws are brought more in line with vital protections guaranteed in our Constitution.”

For more on Due Process Institute’s work to protect due process rights by reforming FISA, please contact Jeremiah Mosteller at Jeremiah@iDueProcess.org or visit <https://idueprocess.org/blog/f/privacy-and-security-are-not-antithetical>.

Due Process Institute is a bipartisan nonprofit that works to honor, preserve, and restore principles of fairness in our criminal legal system.