

Highlights of S. 139, as Amended

The FISA Amendments Reauthorization Act of 2017

- Section 702 of the Foreign Intelligence Surveillance Act (FISA) is a critical foreign intelligence collection tool that sunsets on January 19, 2018. This amendment will reauthorize the authority for six years.
- This amendment preserves Section 702’s operational flexibility while making key privacy enhancements such as:
 - Requiring specific query procedures—separate from existing minimization procedures—which must be annually approved by the Foreign Intelligence Surveillance Court (FISC);
 - Adding a probable cause-based order requirement for the FBI to view Section 702 content that was responsive to a criminal investigative query on a U.S. person not related to national security;
 - Requiring the Inspector General of the Department of Justice to review the FBI’s Section 702 query practices, including the implementation and interpretation of the FBI’s query procedures;
 - Restricting the use of Section 702 information against U.S. people in criminal cases to cases related to national security or severe crimes such as murder and kidnapping;
 - Temporarily ending the NSA’s Section 702 “abouts” collection until the government develops new procedures, gains FISC approval for them, and briefs the congressional intelligence and judiciary committees;
 - Enhancing the Privacy and Civil Liberties Oversight Board; and
 - Adding several new transparency requirements related to various FISA provisions.
- Section 702 has been a key instrument in U.S. counterterrorism effort, as illustrated in the declassified story of Hajji Iman, the second-in-command of ISIS who was tracked via the use of Section 702 and removed from the battlefield.
- Section 702 remains one of the most heavily and carefully overseen authorities in the Intelligence Community, with oversight by all three branches of government.