

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require court orders and institute protections on incidentally collected communications of United States persons.

IN THE SENATE OF THE UNITED STATES—115th Cong., 1st Sess.

S. _____

To extend the FISA Amendments Act of 2008 for 8 years, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. FEINSTEIN to the amendment (No. _____) proposed by Mr. BURR

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . COURT ORDERS AND PROTECTIONS OF INCIDENTALLY COLLECTED COMMUNICATIONS OF UNITED STATES PERSONS.**

3 (a) IN GENERAL.—Section 702 of the Foreign Intelligence Surveillance Act of 1978 is amended—

4 (1) by redesignating subsections (j), (k), and (l) as subsections (k), (l), and (m), respectively; and

5 (2) by inserting after subsection (i) the following:

1 “(j) REQUIREMENTS FOR ACCESS TO COMMUNICA-
2 TIONS OF UNITED STATES PERSONS.—

3 “(1) COURT ORDERS.—Except as provided
4 under paragraph (3), in response to a query relating
5 to a United States person, the contents of queried
6 communications acquired under subsection (a) may
7 be accessed only if—

8 “(A) the Attorney General submits to the
9 Foreign Intelligence Surveillance Court an ap-
10 plication that demonstrates that there is prob-
11 able cause to believe that—

12 “(i) such contents may relate to a
13 crime a specified in section 2516 of title
14 18, United States Code; or

15 “(ii) the individual is the agent of a
16 foreign power; and

17 “(B) a judge of the Foreign Intelligence
18 Surveillance Court reviews and approves such
19 application.

20 “(2) EXPEDITIOUS CONSIDERATION.—Any ap-
21 plication under paragraph (1) shall be considered by
22 the Foreign Intelligence Surveillance Court expedi-
23 tiously and without delay.

24 “(3) EXCEPTION.—If the Attorney General de-
25 termines that exigent circumstances require access

1 to contents before an order can be obtained, the At-
2 torney General may access such contents without an
3 order for a maximum period of 7 days.

4 “(4) REPORTING.—Not less frequently than
5 once every 6 months, the Attorney General shall
6 submit to the Committee on the Judiciary and the
7 Select Committee on Intelligence of the Senate and
8 the Committee on the Judiciary and the Permanent
9 Select Committee on Intelligence of the House of
10 Representatives a report containing the number of
11 times the Attorney General has made a determina-
12 tion under paragraph (3) in the previous 6
13 months.”.

14 (b) TECHNICAL AND CONFORMING AMENDMENT.—
15 Section 404(b)(4) of the Foreign Intelligence Surveillance
16 Act of 1978 Amendments Act of 2008 (50 U.S.C. 1801
17 note) is amended by striking “702(l)” each place it ap-
18 pears and inserting “702(m)”.