

HILL ALERT



DUE PROCESS

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Vote NO on the Rule for Reauthorization of Section 702 of FISA

Due Process Institute urges members to vote **NO** on the rule providing for consideration of the reauthorization of Section 702 of the Foreign Intelligence Surveillance Act (FISA), H.R. 8035. Forcing through reauthorization at this moment is governing by crisis—and it’s an insult to members of Congress who have been earnestly seeking reforms to Section 702 for years, as well as to the constituents every elected official represents. Ramming FISA reauthorization through now avoids the debate required to protect Americans’ civil liberties at a critical moment in our nation’s history.

It’s ironic that the reauthorization of Section 702 is coming before Congress in 2026—the same year in which we will celebrate America’s 250th anniversary. Although the list of grievances against King George III was lengthy, the use of writs of assistance to conduct illegal searches was among the most egregious abuses of colonists’ liberties. In February 1761, James Otis spoke for several hours before the Massachusetts Superior Court, condemning what he called “the worst instrument of arbitrary power.” John Adams, who would later serve in the Second Continental Congress, witnessed Otis’s speech and described him as “a flame of fire” who delivered a “dissertation on the rights of man in a state of nature.” The Founding generation’s outrage over general warrants and writs of assistance was so profound that James Madison later proposed language that became the Fourth Amendment, protecting Americans from unreasonable searches and seizures.

No one denies that we live in a different age and face threats the Founders could not have envisioned. But we can protect the homeland while preserving the liberties for which the Founding generation sacrificed so much. We are capable of both.

Although proponents of a so-called “clean reauthorization” of Section 702 continue to tout the “reforms” included in the 2024 reauthorization, most of those changes were cosmetic and have not curtailed abuses of the program. In fact, the 2024 reauthorization expanded surveillance authorities by broadening the definition of an “electronic communications service provider” (ECSP) to include a wider range of private entities—potentially compelling anyone with access to networking equipment or servers to assist in surveillance. The Federal Bureau of Investigation can still conduct warrantless searches of Americans’ communications collected under Section 702—a practice commonly referred to as the “backdoor search loophole.” And the government can still purchase Americans’ data from third-party brokers, raising serious concerns about circumvention of the Supreme Court’s decision in *Carpenter v. United States*.

Unless the White House and House Republican leadership allow votes on amendments to require warrants for U.S. person searches, narrow the definition of ECSP, and prohibit the government from purchasing Americans' data from third-party brokers, the rule providing for consideration of Section 702 should be rejected by the House.

Due Process Institute encourages all Members to vote NO on the rule providing for the consideration of the reauthorization of Section 702 of FISA.

Due Process Institute is a bipartisan nonprofit that works to honor, preserve, and restore principles of fairness in the criminal legal system. If you have any questions or concerns, please contact Vice President, Jason Pye at jason@idueprocess.org.