

USA FREEDOM Act of 2015 passes

With the revelations of government surveillance activities of the last several years in particular, first by *The New York Times* and then Edward Snowden, many believed that real reform might finally be achieved in the last Congress by passing the USA FREEDOM Act of 2014. But they were wrong.

In May 2014, the House passed a version of the USA FREEDOM Act (H.R. 3361) that was dramatically weakened from a civil liberties point of view in the House Judiciary Committee and then stripped of virtually all meaningful privacy-restoring reforms by the full House of Representatives. While strenuous efforts were made to bring a robust version of the bill (S. 2685) to the floor of the Senate, Republican members filibustered that bill and the 113th Congress ended without further action once again on any reform of the USA PATRIOT Act.

Undeterred, the bill's bipartisan sponsors in both chambers reintroduced the USA FREEDOM Act of 2015 (H.R. 2048). This was a tenuously calibrated agreement that garnered the support of both many civil liberties organizations, including ALA, as well as congressional "surveillance hawks," the nation's intelligence agencies, and the Obama Administration. On May 14, just one week after a federal appeals court ruled that the National Security Agency's (NSA) use of Section 215 to collect Americans' telephone call records in bulk was illegal, H.R. 2048 passed the House with a strongly bipartisan vote (338 yeas to 88 nays).

On June 2, the Senate passed by a vote of 67 to 32, and the President signed the USA FREEDOM Act of 2015. It effectively precludes the future use of Section 215 (the "library provision") of the USA PATRIOT Act

for the bulk collection of telephone call data and other business records, including library patron information.

It also for the first time enacts multiple reforms to facilitate the effective challenge of gag orders accompanying NSA letters; more meaningfully inform the press and public as to how often the government is requesting information under Section 215; and, for the first time, enable appointed pro-civil liberties arguments to be made by fully informed advocates before the secret "FISA" Court in select key cases.

H.R. 2048 will go into effect in early December.

Lobbying and grassroots advocacy on both privacy- and cybersecurity-related issues by ALA is anticipated for the indefinite future. While a symbolically important and substantively meaningful victory, the USA FREEDOM Act begins some reforms to a single statute. Other portions of the USA PATRIOT Act, and of many other statutes pertaining to both foreign (FISA) and domestic (ECPA) surveillance, also require major reform.

Finally, and crucially, ALA and its allies have long been and remain fully committed to working for the most profound reform of all of the nation's privacy and surveillance laws possible. ALA regarded passing the USA FREEDOM Act of 2015 as a critical step—the first possible in 14 years—to make real progress toward that much broader permanent goal, but as only a step.

Work will continue to pass comprehensive reform of the badly outdated Electronic Communications Privacy Act and to restore Americans' civil liberties still compromised by, for example, other portions of the USA PATRIOT Act, Section 702 of the Foreign Intelligence Surveillance Act, Executive Order 12333 and many other privacy-hostile legal authorities. ♪

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