

# The New York State Electronic Communications Privacy Act (NY-ECPA, A1895A/S6044)

## Summary

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The New York State Electronic Communications Privacy Act safeguards the electronic information of New York residents and supports innovation by updating state privacy law to match our expanding use of digital information.

Existing privacy laws require the police to get a warrant before searching the file cabinet or computer in your house or the letters in your mailbox. Now that technology has advanced, New York state laws need to be updated to require the same warrant protections when the police want to track your phone or read your emails, text messages, online records or social media.

## Background

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New Yorkers increasingly rely on cell phones, computers, tablets and the internet to connect, communicate, work, research information and manage often sensitive or confidential personal matters. Low-income New Yorkers and New Yorkers of color are particularly dependant on their cell phones for online access.<sup>1</sup>

Our privacy laws must advance at the same pace as technology because law enforcement is increasingly taking advantage of new technologies to access our information. For example:

- In the first half of 2017, Verizon received 138,773 law enforcement requests for

customer data, **only 7.7 percent with a warrant.**<sup>2</sup>

- In 2015, Twitter received more demands from New York law enforcement than **any other state.**<sup>3</sup>
- Requests to Nest (Google's Smart Home device) have **doubled from 2016 to 2017.**<sup>4</sup>
- Request for user information to Snapchat have **increased by 390% between 2015 and 2017**, even though most Snapchat users believe their photos, videos and texts get deleted.<sup>5</sup>
- In the first half of 2017, Facebook received 32,716 requests from federal, state and local law enforcement regarding 52,280 accounts. **Information was produced in 80 percent of cases, which is a 37% increase from the same period in 2016.**<sup>6</sup>

As a result, public confidence in technology is decreasing, and companies are concerned about developing new technology. According to the Pew Research Center:<sup>7</sup>

- 80 percent of adults feel that Americans are rightly concerned about government monitoring of internet communications.
- 70 percent of social networking users express concern about government access.
- 75 percent believe that their email messages, texts and location are sensitive.

Courts and legislatures around the country are recognizing the need to update privacy laws for the digital age, and the White House has also called on lawmakers to update the law.

## Solution

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New York is one of the sixteen states and the District of Columbia to participate in a coordinated, bipartisan effort to introduce legislation in 2016 that balance privacy and public safety. NY-ECPA will:

- Require law enforcement to get a warrant before accessing sensitive digital information
- Provide proper transparency and oversight
- Make appropriate exceptions for public safety

New Yorkers should no longer have to choose between using new technology and keeping their personal and digital lives private. If you would like to learn more about or support the New York State Electronic Communications Privacy Act, please contact [ecpa@nyclu.org](mailto:ecpa@nyclu.org).

## Contact

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For more information about the bill and a list of supporters, please visit [nyclu.org/ecpa](http://nyclu.org/ecpa).

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<sup>1</sup> 13 percent of Americans with an annual household income of less than \$30,000 per year are smartphone-dependent, compared with 1 percent of American from households earning more than \$75,000 per year. Additionally, 12 percent of blacks and 13 percent of Latinos are smartphone-dependent, compared with just 4 percent of whites. See “U.S. Smartphone Use in 2015” a report by the Pew Research Center, available at <http://www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015/>.

<sup>2</sup> Verizon Transparency Report, available at <http://transparency.verizon.com/us-report>.

<sup>3</sup> Twitter Transparency Report, available at <https://transparency.twitter.com/country/us>.

<sup>4</sup> Tumblr Transparency Reports, available at <https://www.tumblr.com/transparency>.

<sup>5</sup> Snapchat Transparency Report, available at <https://www.snapchat.com/transparency/02282015.html>.

<sup>6</sup> Facebook’s Transparency Report, available at <https://govtrequests.facebook.com/country/United%20States/2015-H1/>.

<sup>7</sup> See “Public Perceptions of Privacy and Security in the Post-Snowden Era” a report by the Pew Research Center.