



Memorandum in Support — The New York Electronic Communications Privacy Act IN SUPPORT OF: A.1895A (Dinowitz) / S.6044 (Avella)

May 19, 2017

Tech:NYC respectfully urges support of the proposed A.1895a / S.6044, the New York Electronic Communications Privacy Act (NY ECPA). This bill amends New York State criminal procedure law in order to better match increased use by consumers of mobile devices and cloud computing, while balancing important public safety concerns.

Tech:NYC represents the city's fast-growing, entrepreneurial high-tech industry. Its primary goal is to continue to attract tech talent and jobs to NYC, to support the growth of the technology sector, and to increase civic engagement by leaders of the New York tech community. Tech:NYC mobilizes the expertise and resources of the tech sector to work with city and state government on programs and policies that ensure New York's pre-eminence in the global innovation economy. Tech:NYC has nearly 500 members, from small startups to the largest technology companies.

New York's existing privacy laws require law enforcement to obtain a warrant before searching physical files, computer hard drives, and postal mail. But law enforcement does not require a warrant when accessing private data stored in mobile device storage, text messages, email, social media, or other online repositories. In light of the reality that New York residents and visitors now rely heavily on mobile devices and electronic communications to replace physical files, desktop computers, and paper-based communication, a revised criminal statute that brings New York criminal procedure in line with other states and into the 21st century is long overdue.

The NY ECPA will modernize New York's privacy laws by requiring law enforcement officers and agents to obtain a warrant to compel the production of electronic communication information from a service provider or third party. The bill contains reasonable exceptions for the recovery of lost or stolen devices and access to data in emergencies involving danger of death or serious physical injury.

While technology has advanced exponentially, state privacy laws remain largely unchanged. At the same time, public confidence in technology has continued to decline. Polls consistently show that an overwhelming majority of Americans believe their email messages, text messages, and location information are sensitive, and they disapprove of government monitoring and collection of their digital data. For these reasons, Tech:NYC urges the New York State Legislature to pass the New York Electronic Communications Privacy Act, A.1895a/S.6044, so New York's privacy laws reflect our modern digital age.