



Memorandum in Support – The New York Electronic Communications Privacy Act

IN SUPPORT OF: A.09235 (Dinowitz)

SUBJECT: Relates to creating the New York electronic communications privacy act; relates to the search and seizure of electronic devices and electronic communications.

The Center for Democracy & Technology writes in support of the New York Electronic Communications Privacy Act, which safeguards the rights of New York citizens, spurs innovation, and supports public safety by updating New York privacy law for the digital world.

The citizens of New York use technology every day to connect, communicate, work, and learn. Technology companies rely on consumer confidence in these services to help power the state's economy. But while technology has advanced exponentially, New York's electronic privacy laws have not kept pace. Consumers are increasingly concerned about warrantless government access to their digital information. Law enforcement officials are increasingly taking advantage of outdated privacy laws to turn mobile phones into tracking devices, and to seek access to sensitive emails, documents, and messages without proper judicial oversight. Polls consistently show that consumers believe that their electronic information is sensitive, and that current laws provide inadequate protection from government monitoring. Companies in turn are concerned about loss of consumer trust and its business impact.

A.09235 will require that the police go to a judge to obtain a warrant before they can access sensitive information, including data from personal electronic devices, emails, documents, text messages, and location information under normal circumstances. The bill also includes thoughtful exceptions to ensure that they can continue to effectively and efficiently protect public safety. The bill's notice, reporting, and enforcement provisions provide proper transparency and oversight, as well as mechanisms to ensure that the law is followed.

Courts and legislatures around the country are recognizing the need to update privacy laws for the modern digital age. In two recent decisions, *United States v. Jones* and *Riley v. California*, the U.S. Supreme Court upheld Fourth Amendment privacy rights against warrantless government surveillance. Many states have enacted legislation to safeguard rights, spur innovation, and support public safety. A federal bill has garnered over 310 bipartisan co-sponsors in the United States Congress. It is for these reasons that we support the New York Electronic Communications Privacy Act in order to ensure that New Yorkers are not forced to choose between using new technology and keeping their personal lives private, and technology companies are not burdened with privacy laws stuck in the digital dark ages.

Respectfully,

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