

Senate panel passes email privacy measure

November 29 2012, by Rob Lever



US Senator Patrick Leahy, shown in July, sponsored a bill aimed at boosting email privacy protections

A US Senate panel approved a bill to boost email privacy protections in a vote Thursday that followed widespread uproar over the FBI probe that toppled CIA director David Petraeus.

The measure, which if enacted would require police to obtain a warrant

in most cases to access email accounts, drew immediate praise from privacy activists.

The proposal had been pending for some time but garnered increased attention after the resignation of Petraeus earlier this month due to an extramarital affair exposed by a search of his email records.

Senate judiciary chairman Patrick Leahy, who sponsored the measure, said it would update a 1986 privacy law as "Americans face even greater threats to their digital privacy."

"After decades of the erosion of Americans' privacy rights on many fronts, we finally have a rare opportunity for progress on privacy protection," the Vermont senator said in a statement.

Leahy's measure requires the government to obtain a search warrant based on probable cause in order to obtain email content from a third-party service provider, with some exceptions in cases of national security or imminent threats.

It also calls for the government to notify an individual whose electronic communication has been disclosed, and provide that individual with a copy of the search warrant used.

Gregory Nojeim of the Center for Democracy and Technology said the bill offered a historic step forward for privacy rights.

"Our privacy laws are woefully outdated given the rapid advance of technology," he said.

Nojeim said the measure "keeps the government from turning cloud providers into a one-stop convenience store for government investigators and requires government investigators to do for online communications

what they already do in the offline world: Get a warrant."

The American Civil Liberties Union also hailed the move.

"This is an important gain for privacy. We are very happy that the committee voted that all electronic content like emails, photos and other communications held by companies like Google and Facebook should be protected with a search warrant," said Chris Calabrese, ACLU legislative counsel.

"We believe law enforcement should use the same standard to search your inbox that they do to search your home."

The Electronic Frontier Foundation welcomed the move, saying it would "close a dangerous loophole in the 1986 Electronic Communications Privacy Act," which authorities have argued allows them to access private emails that are more than 180 days old without a warrant.

Robert Holleyman, head of the Software Alliance, also praised the panel for "an important step in building trust and confidence in cloud computing and other digital services."

"Law enforcement access and civil protections should be the same for online files and other digital records as they are for papers stored in a file cabinet," Holleyman said.

Petraeus resigned when it became clear that his affair with 40-year-old military reservist Paula Broadwell, his biographer, would become public.

FBI agents stumbled on the liaison after a complaint from Jill Kelley—a friend of Petraeus—who told a federal agent that she had received threatening emails, which investigators later traced to Broadwell.

The Leahy measure would need to pass the Senate and the House of Representatives before going to President Barack Obama's desk to be signed into law.

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