

New California law extends privacy rights to electronic data

October 9 2015, byBree Fowler



In this Aug. 11, 2014 file photo, State Sen. Anthony Canella, R-Ceres, uses his smartphone at the Capitol in Sacramento, Calif. California Gov. Jerry Brown on Thursday, Oct. 8, 2015 signed into law the California Electronic Communications Privacy Act, a law which requires police to get a court order before they can search messages, photos and other digital data stored on phones or company servers. (AP Photo/Rich Pedroncelli, File)

California will require police to get a court order before they can search

messages, photos and other digital data stored on phones or company servers in the nation's most-populous state.

Civil-liberties advocates called the new law that takes effect Jan. 1 an important advance and said it highlights the need for similar protections at the national level.

The California Electronic Communications Privacy Act was signed by Gov. Jerry Brown on Thursday. It's only the third of its kind in the U.S.

While some states guarantee some of its protections, only Maine and Utah previously had comprehensive laws on the books, noted Hanni Fakhoury, senior staff attorney for the Electronic Frontier Foundation.

"It's an expansive bill and this being California, it covers a lot of people," Fakhoury said of the state with a population of about 39 million. "It's an important thing and a good development."

The digital rights group, along with the American Civil Liberties Union, news organizations and tech companies, worked for the bill's passage. They argued that previous California law dating back to the 1980s was in desperate need of an update given the dramatic changes in the digital world.

But the bill's opponents, including several California police groups, argued that the measure would hamper the ability of law enforcement to investigate child pornographers and others who commit crimes online.

"Privacy is of the utmost importance in the digital age, and while I strongly support an individual's right to privacy, it should not be protected at the expense of our children," said Assemblyman Jim Cooper, D-Elk Grove.

Law-enforcement requests for people's electronic information, particularly from technology companies such as Google and Twitter, have skyrocketed in recent years, said Nicole Ozer, technology and civil liberties policy director for the ACLU of California.

Previously, all that was generally needed to get the information was a subpoena. Now, under the new law, a warrant will be required in most cases.

"It really is a true update of privacy law for the digital world, making sure that sensitive information about who we are, and where we go, and what we do, and who we know is protected from government intrusion," Ozer said.

She added that "hopefully this will send an important message to Congress to make sure all that all Americans have these important, updated privacy protections."

Advocates have tried to pass legislation at the national level for years without any success. The Email Privacy Act, a proposed update to the Electronic Communications Privacy Act, has 300 sponsors in the U.S. House of Representatives, but its future remains unclear.

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