



CENTER FOR ADVOCACY & POLICY
1127 Eleventh Street, Suite 501
Sacramento, CA 95814
Telephone: (916) 442-1036
Fax: (916) 442-1743

February 25, 2015

The Honorable Mark Leno & Joel Anderson
State Capitol, Room
Sacramento, CA 95814

Re: SB 178 - Support

Dear Senators Leno & Anderson:

The American Civil Liberties Union of California strongly supports SB 178 – The California Electronic Communications Privacy Act. SB 178 safeguards the rights of Californians, spurs innovation, and supports public safety by updating California privacy law for the modern digital world.

Californians use technology every day to connect, communicate, work, and learn. The state's leading technology companies rely on consumer confidence in their services to help power the California economy. The California legislature has long been a leader in enacting laws to properly safeguard Californians' constitutional right to privacy.

But while technology has advanced exponentially, California's electronic privacy laws have not kept pace. Californians are increasingly concerned about warrantless government access to their digital information, and for good reason. Law enforcement is increasingly taking advantage of outdated privacy laws to turn mobile phones into tracking devices and access sensitive emails, digital documents, and text messages without proper judicial oversight. For example, Google announced it had received over 12,500 requests from U.S. law enforcement in the first 6 months of 2014 alone, a 250% increase over five years prior. Only ¼ of those requests were warrants.

As a result, public confidence in technology has been badly damaged. Polls consistently show that consumers believe that their electronic information is sensitive and that current laws provide inadequate protection from government monitoring. In fact, a recent Pew Internet & Society survey found that 75% or more adults believe that their email messages, text messages, and location information are sensitive, and 80% of adults feel that Americans are rightly concerned about government monitoring of internet communications. Companies in turn are increasingly concerned about loss of consumer trust and its business impact.

ACLU OF NORTHERN CALIFORNIA
Abdi Solani, Executive Director
39 Drumm Street
San Francisco, CA 94111
(415) 621-2493

ACLU OF SOUTHERN CALIFORNIA
Hector Villagra, Executive Director
1313 West Eighth Street
Los Angeles, CA 90017
(213) 977-9500

ACLU OF SAN DIEGO & IMPERIAL COUNTIES
Norma Chavez-Peterson, Executive Director
P.O. Box 87131
San Diego, CA 92138
(619) 232-2121

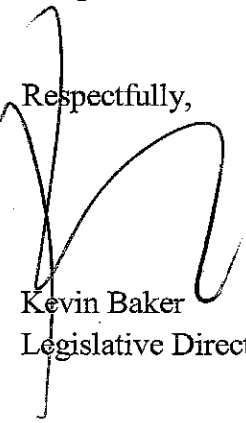
SB 178 will make sure that the police go to a judge and get a warrant before they can access sensitive information, including data from personal electronic devices, emails, digital documents, text messages, and location information under normal circumstances. The bill also includes thoughtful exceptions that acknowledge legitimate public safety needs. The bill's notice, reporting, and enforcement provisions make sure that there is proper transparency and oversight 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. Justice Alito in *Jones* also prompted lawmakers to take action, noting that in circumstances involving dramatic technological change "a legislative body is well suited to gauge changing public attitudes, to draw detailed lines, and to balance privacy and public safety in a comprehensive way."


California has fallen behind fifteen states as diverse as Texas, Maine, and Utah which have already heeded Justice Alito's call and enacted legislation to safeguard rights, spur innovation, and support public safety. Nine states have already safeguarded location informationⁱ and five have protected electronic communications content.ⁱⁱ The White House has called on lawmakers to update the law to "ensure the standard of protection for online, digital content is consistent with that afforded in the physical world." And a federal bill currently has over 242 bipartisan co-sponsors in the United States Congress.

The state's leading technology companies and organizations have joined a bipartisan group of legislators to support this important legislation which makes sure that Californians are not forced to choose between using new technology and their privacy, and that California's technology companies are not burdened with privacy laws stuck in the digital dark ages.

Respectfully,



Kevin Baker
Legislative Director



Francisco Lobaco
Legislative Advocate

ⁱ IN H.B. 1009 (2014); IL S.B. 2808 (2013); MD S.B. 698 (2013); ME S.P. 157 (2013); MN S.F. 2466 (2014); MT H.B. 603 (2013); TN S.B. 2087 (2013); UT H.B. 128 (2014); WI A.B. 536 (2013).

ⁱⁱ HI H.B. 1641 (2013); MD S.B. 698 (2013); ME S.P. 484 (2013); TX H.B. 2268 (2013); UT H.B. 128 (2014).