

Patrick Leahy

U.S. Senator Patrick Leahy of Vermont



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Statement Of Senator Patrick Leahy (D-Vt.), Chairman, Senate Judiciary Committee, On the 27th Anniversary of the Enactment Of The Electronic Communications Privacy Act

The Electronic Communications Privacy Act (ECPA), one of the Nation's premiere digital privacy laws, was enacted 27 years ago on October 21st. I join the many privacy advocates, technology organizations, legal scholars and other Americans who celebrate this milestone and all that ECPA has come to symbolize about the importance of safeguarding our privacy rights in cyberspace.

When I introduced ECPA with former Republican Senator Charles Mathias in 1986, I said that "the privacy protections in ECPA are designed to protect legitimate law enforcement needs while minimizing intrusions on the privacy of system users as well as the business needs of electronic communications system providers." During the last three decades, ECPA has become the premier law for protecting Americans from unauthorized Government intrusions into their private electronic communications.

When Congress enacted ECPA, email was a novelty and no one imagined how prevalent it would become in our daily communication let alone how long it might be stored. But after almost three decades, new technologies — such as the Internet, social networking sites and cloud computing — have changed how Americans use and store email. Storing documents and other information electronically has become much less expensive and mobile technologies permit users to access stored documents wherever and whenever they choose. As a result, the digital privacy protections put in place 27 years ago have not kept pace with new technologies.

That is why Congress must revitalize the digital privacy protections that were enacted in ECPA. That is also why I am working in a bipartisan manner to update this law to reflect the realities of our time.

In April, the Judiciary Committee favorably reported bipartisan legislation that I authored with Republican Senator Mike Lee to update ECPA and to bring this law fully into the digital age. Our bipartisan bill updates ECPA to require that the Government obtain a search warrant — based upon probable cause — before obtaining the content of our emails and other electronic communications. The common sense reforms in our bill carefully balance the interests and needs of consumers, the law enforcement community, and our Nation's thriving technology sector. The bill enjoys the support of a diverse coalition of more than 100 privacy, civil liberties, civil rights and technology organizations from across the political spectrum, including the American Civil Liberties Union, the Heritage Foundation, the Center for Democracy and Technology and Americans for Tax Reform. The bill is also the product of careful consultation with many Government and private sector stakeholders, including the Departments of Justice, Commerce and State, local law enforcement, and members of the technology and privacy communities. I remain disappointed that a single Republican Senator has objected to the unanimous consent request to pass this bipartisan bill, which overwhelmingly passed the Judiciary Committee.

The privacy reforms in this bill are too important to delay. Like Senator Lee and me, all of the bill's supporters understand that protecting our digital privacy rights is not a Democratic ideal, nor a Republican ideal, but an American ideal that all of us should embrace. As ECPA reaches another milestone, it is important to remember that Americans continue to face threats to their digital privacy. I hope that all Senators will join me in supporting the Electronic Communications Privacy Act Amendments Act and

that the Senate will pass this bill without delay.

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Press Contact

Press Contact

David Carle: 202-224-3693

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Burlington Office

199 Main Street, 4th Floor
Burlington, VT 05401
Phone: (802) 863-2525
(800) 642-3193

Washington Office

437 Russell Senate Bldg
United States Senate
Washington, DC 20510
Phone: (202) 224-4242

Montpelier Office

87 State Street, Room 338
Montpelier, VT 05602
Phone: (802) 229-0569

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