

The Electronic Privacy Act

Sen. Karen Spilka (S.943) || Rep. Sarah Peake (H.2332)

Use a computer or cell phone? You deserve clear, updated privacy protections.

The Electronic Privacy Act would protect the sensitive personal information generated from your use of your phone and the internet — including the content of your emails and texts, records about your GPS location, and any information you store online. It would require law enforcement to get a warrant before obtaining personal information from a phone or internet company, or using an interception device known as a Stingray to trick a phone into divulging information directly.

“Modern cell phones are not just another technological convenience. The fact that technology now allows an individual to carry [huge quantities of personal] information in his hand does not make the information any less worthy of the protection for which the founders fought.”

— Chief Justice Roberts, *Riley v. California*

The warrant standard should apply across the board.



The Supreme Court has affirmed basic constitutional principles about search and seizure for the digital age, at least in one context: police may not search an arrested person’s cell phone without first obtaining a warrant.

Massachusetts must adopt that principle for all searches and seizures of personal electronic information.

Our statutes should require a warrant whether law enforcement wants the data from your actual phone or from your phone company, from your computer or from an internet company.

And any time law enforcement wants to use a high tech tool to trick your phone into giving up personal information, they should get a warrant for that too, and be up front with the judge about their plans.

Update the Law to Keep Pace with Technology

Digital Info Held by Corporations

The Electronic Privacy Act closes a gaping hole left by an obsolete federal law that says law enforcement can obtain your information *without a warrant* if it's older than 180 days. Under federal law, the government can claim authority to read all your old correspondence, and even emails you drafted but decided to NOT send. This is a colossal invasion of privacy.



The Electronic Privacy Act will require law enforcement to obtain a warrant before demanding this kind of information from companies like Google, Microsoft, Apple, and Dropbox:

- Search queries
- Digital calendars and address books
- Emails, chats, and texts
- Private Facebook and Instagram photos
- Private social media messages
- Documents stored in the cloud

Stingrays

The bill also requires police to get warrants to use Stingrays—high tech devices that trick our phones into communicating with the police. The Department of Justice has a policy requiring warrants for stingray use, but it's not law, and it doesn't apply to state and local police. Massachusetts must reject secret warrantless spying on cell phones.