

THE CONSTITUTION PROJECT



Safeguarding Liberty, Justice & the Rule of Law

FOR IMMEDIATE RELEASE - April 25, 2013

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Requiring a Warrant for Electronic Content Long Overdue, Watchdog Group Says

WASHINGTON, D.C. -- Sharon Bradford Franklin, senior counsel at The Constitution Project, offered the following comments welcoming the Senate Judiciary Committee's bipartisan vote to send the Electronic Communications Privacy Act Amendments Act of 2013 (S. 607) to the full Senate:

"The ECPA Amendments Act would provide a long-needed update to the legal rules under which law enforcement officials access our emails, documents stored 'in the cloud,' and other private electronic communications. Requiring the government to get a warrant in order to obtain these communications will ensure that the same Fourth Amendment safeguards protecting our physical documents also protect our electronic communications in the digital age. It is more than a quarter-century since Congress enacted ECPA, and we hope that it will now act quickly to pass this long overdue reform legislation."

The bill would amend the Electronic Communications Privacy Act (ECPA), a 1986 law that regulates government access to the content of private electronic communications, by requiring that government officials get a warrant based on probable cause before obtaining the content of electronic communications. Law enforcement officers could still rely on existing exceptions to the warrant requirement.

The Senate Judiciary Committee passed the bill on a voice vote, and it now heads to the full Senate for debate.

TCP is part of the Digital Due Process Coalition, comprising technology companies and privacy groups from across the political spectrum, which strongly supports modernizing the law. Earlier, TCP joined a [coalition letter](#) to members of the Senate Judiciary Committee urging passage of the bill.

Judge William S. Sessions, a former director of the FBI and a member of TCP's board of directors, also wrote a letter to members of the Committee supporting the bill, saying that the reforms of ECPA necessary to preserve civil liberties could be achieved [without hampering law enforcement activities](#).

TCP supports other changes to ECPA as well. In 2011, the group's Liberty and Security Committee

issued a [report](#), urging Congress to amend the law to require the government to obtain a warrant based on probable cause in order to access GPS and cell phone location information. The legislation adopted by the Committee does not address cell phone tracking.

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[About The Constitution Project](#)

Created out of the belief that we must cast aside the labels that divide us in order to keep our democracy strong, The Constitution Project (TCP) brings together policy experts and legal practitioners from across the political spectrum to foster consensus-based solutions to the most difficult constitutional challenges of our time. TCP seeks to reform the nation's broken criminal justice system and to strengthen the rule of law through scholarship, advocacy, policy reform and public education initiatives. Established in 1997, TCP is based in Washington, D.C.



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