



## Reforms to the *Electronic Communications Privacy Act*

The framers of the Constitution recognized that the government should be properly restrained in its power to monitor the private lives of citizens. The American Association of Law Libraries (AALL) urges Congress to reform the *Electronic Communications Privacy Act of 1986 (ECPA)* to protect our Fourth Amendment rights and uphold the integrity of law enforcement in the digital age. The Email Privacy Act (H.R. 699) and Electronic Communications Privacy Act Amendments of 2015 (S. 356) are bipartisan efforts to restore a fair balance between the privacy rights of citizens and the legitimate needs of law enforcement. These reforms would bring electronic privacy laws in line with the technological innovations of the last three decades. On April 27, the House of Representatives passed H.R. 699 by a vote of 419-0.

AALL is a member of the Digital Due Process coalition, a diverse group of companies, public interest groups, and library associations working together to strengthen *ECPA* to provide stronger privacy protections for electronic communications in response to changes in technology, while preserving the legal tools necessary for government agencies to enforce laws, respond to emergency circumstances, and protect the public. When Congress passed *ECPA* in 1986, email was new and the World Wide Web did not yet exist. But while technology has advanced at a rapid pace, electronic privacy laws have remained at a standstill. Without reform, the kind of electronic communications and records that are common today – such as email, Facebook posts, search histories, cloud computing documents, cell phone location information, or text messages older than 180 days – can be freely seized without a warrant.

Congress must adequately balance the government's interest in protecting national security with the protections of privacy and freedom from government surveillance the Constitution requires. **AALL urges Congress to pass the *Email Privacy Act (H.R. 699)* because these reforms:**

- **Strengthen protections for sensitive personal information.** H.R. 699 properly protect sensitive personal information from intrusive government surveillance by requiring a warrant based on probable cause before obtaining the content of emails and other electronic communications. The bills eliminate the outdated “180-day rule” that calls for different legal standards for the government to obtain email content depending upon the age of an email and include exceptions for emergencies and national security.
- **Properly balance notice requirements for members of the public and the government.** H.R. 699 requires the government to notify any individual whose electronic communications has been accessed via a third-party service provider within ten days of obtaining a search warrant, and to provide that individual with a copy of the search warrant and other details about the information obtained. The bills also allow the government to request a court order delaying that notice.
- **Have been crafted in consultation with law enforcement.** The authors of H.R. 699 have worked for the last three years with law enforcement stakeholders to make sure that the legitimate needs of law enforcement are met. The bills would not interfere with national security or terrorism investigations.