



## Memorandum in Support – The New York Electronic Communications Privacy Act

### IN SUPPORT OF: A1892a (Dinowitz)/S6044 (Avella)

*SUBJECT: Relates to creating the New York electronic communications privacy act; relates to the search and seizure of electronic devices and electronic communications.*

Access Now, a non-profit corporation registered in California and New York, supports the New York Electronic Communications Privacy Act. Law enforcement should be required to have a legally issued warrant prior to obtaining any electronic communications and electronic device information from any party other than the authorized possessor of the communication or device, including service providers.

An individual's right to privacy is a fundamental right found in the United States Constitution. The 4<sup>th</sup> Amendment protects these individuals' rights by limiting legal searches and seizures to the narrow circumstances present when a judge has approved the requisite particularity in scope and there is sufficient probable cause for a warrant to be issued.

Additionally, enacting the bill will help New York comply with United States treaty obligations. For example, Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights forbid arbitrary interference with one's right to privacy regarding their correspondence, and guarantees individuals with the protection of the law against such interference. By permitting law enforcement to circumvent international law, and allowing them to acquire intimate communications via third party service providers without an issued warrant, the current law does not adequately protect citizens and their fundamental rights

Finally, as a global center of commerce and innovation, as well as the home of large international human rights organizations, New York is particularly positioned to lead in standards respecting data, privacy, and human rights on the internet. By raising the floor, New York's standards will reverberate in the U.S. and worldwide to promote wider adoption of rights-respecting safeguards that ensure secure processing of data.

This is only one of various reasons why the New York Electronic Communications Privacy Act should be enacted. If action is not taken, the current state of regulations regarding state government access to private electronic communications will continue to be a direct contradiction to federal and international law.

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*Access Now ([www.accessnow.org](http://www.accessnow.org)) is an international organization and that defends and extends the digital rights of users at risk around the world. For more information contact:*

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