

**Statement of Senator Patrick Leahy (D-Vt.),  
Ranking Member, Senate Judiciary Committee  
Executive Business Meeting  
May 26, 2016**

In the year 2016, it is about time that our digital files finally receive the same protections as the papers in our filing cabinets. Last month the House took a major step forward by passing bipartisan legislation to protect Americans' online communications by an astounding vote of 419 to 0. The companion bill that I authored with Senator Lee has nearly 30 Senate cosponsors, including 9 on this Committee.

Our bill, and the House version, ensures that the government has a criminal warrant based on probable cause before it can obtain Americans' texts, photos, and other electronic data from cloud providers. This is a significant reform. But it is also a limited one – because that is already the current practice of government agencies and service providers.

Nearly six years ago, a Federal appellate court held that the contents of Americans' electronic communications are fully protected by the Fourth Amendment. Since then, law enforcement agencies have stopped seeking electronic content from service providers without a warrant. They no longer follow the so-called "180 day rule" – the outdated distinction in the original Electronic Communications Privacy Act (ECPA) that does not protect communications more than 180 days old.

Our reform bill simply codifies this current practice by eliminating the 180-day rule. That is why this bill has broad, virtually unprecedented support across the political spectrum – from the ACLU and Leadership Conference on Civil and Human Rights, to the U.S. Chamber of Commerce, Americans for Tax Reform, and Heritage Action. That is why editorial boards across the country have urged Congress to pass this bill, including *The Wall Street Journal* and *The New York Times*. I cannot remember when these two editorial boards have agreed on anything. But they agree that Congress must finally act to reform ECPA.

Senator Lee and I have been working on this legislation for years. This is the third time that the Judiciary Committee will consider this bill. It has been reported out of Committee twice by voice vote. The House has now passed it 419 to 0.

Some Senators have now raised concerns. I understand we will hold the bill over and attempt to work through those issues over the next two weeks.

Listed for the first time on the agenda is S.2944, the Public Safety Officers' Benefits Improvement Act. I look forward to marking up this bill to improve the PSOB program. I have worked on this issue for many years, and we are still receiving feedback from the law enforcement community about this bill. Just yesterday the Justice Department's Inspector General released a report involving the PSOB program. I am also working on some amendments to further protect law enforcement and their families, and I look forward to considering this bill at our next markup.

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