

SB 3414: PROTECTING HOUSEHOLD PRIVACY ACT (PHPA)

As technology continues to grow and makes its way into our homes, Illinois law must protect our data and us.

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What does the PHPA do?

- Protects private electronic information stored in or shared by household electronic devices from collection by law enforcement without a valid warrant, court order, or exigent circumstances.
- Additionally, it requires manufacturers of household electronic devices to provide notice on their website of all categories of data disclosed to third parties, including the names of all such parties that receive household electronic data.
- Consistent with the Fourth Amendment and the United States Supreme Court's recognition that an individual's expectation of privacy is greatest within their home, this bill recognizes that we should not have to choose between using technological conveniences and preserving our right to privacy.

WHAT IS A "HOUSEHOLD"?

The PHPA defines a *household* as the area inside and immediately surrounding a single or multiple family dwelling, such as a:

- Single family home
- House
- Mobile home
- Condominium
- Duplex
- Building
- Townhouse
- Apartment
- Trailer
- Other living quarters used or intended to be used as a dwelling

WHAT ARE SMART DEVICES?

Under the PHPA a household smart device is any device intended for use within a household that is capable of facilitating electronic communication, often through use of a sensor. This includes:

- Smart speakers (ex. Amazon Echo)
- Smart thermostat (ex. Nest)
- Smart doorbells (ex. Ring)
- Smart locks (ex. August Smart Lock)
- Smart security system (ex. Netgear Arlo)
- Smart display (ex. Google Nest Hub)

Why do we need the PHPA?

The use of "smart" technological devices in our households has grown at an unprecedented pace.

- Many of these household devices include sophisticated sensors, such as microphones and video cameras, which collect sensitive private data from within the home.
- Third parties routinely receive this data through electronic communications from the device.

To safeguard the privacy of those using this technology, it is essential for Illinois law to define the circumstances and conditions under which such sensitive household electronic data may lawfully be obtained.

How long can law enforcement access my data?

Law enforcement **cannot** access user data collected by household electronic devices *unless* they obtain a court ordered warrant or the owner of the household electronic device consents to voluntarily provide the data.

How long can they store my data?

Any household electronic data obtained by a law enforcement agency must be destroyed within **30 days**, *unless*:

- 1) There is a reasonable suspicion that the information contains evidence of criminal activity; or
- 2) The information is relevant to an ongoing investigation or pending criminal trial

If either of the above situations applies, then a supervisor at the agency may keep particular information as needed.

What happens if my data is shared with third parties?

If a manufacturer of a device is sharing any data with a third party, it **must** make the following information available on a *clear and conspicuous* notice on their website:

- 1) All categories of household electronic data that is disclosed to third parties; and
- 2) The names of all third parties that receive household electronic data.

Law Enforcement Agencies

The PHPA defines law enforcement agencies as any agency or political subdivision of Illinois, which is vested by law with the duty to maintain public order and to enforce criminal laws.

Third Parties

The PHPA recognizes a third party as either:

- I. A private entity that is a separate legal entity from the manufacturer of the household electronic device;
- II. A private entity that does not share common ownership or common corporate control with the manufacturer of the household electronic device; or
- III. A private entity that does not share a brand name or common branding with the manufacturer of the household electronic device such that the affiliate relationship is clear to the customer.

For more information contact Khadine Bennett: kbennett@aclu-il.org | 312.607.3355

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PROTECTING HOUSEHOLD PRIVACY ACT