

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.

SPONSOR:

CASTRO

Why do we need this law?

The use of audio and video surveillance is pervasive. While household electronic devices are sold to consumers as a means of convenience and safety, they bring with them a host of surveillance concerns. Most pointedly, many of these devices come equipped with sophisticated sensors and have the capacity to collect and store large amounts of private data. Without regulation, this data is accessible by third parties. Illinois law needs to make explicit its commitment to the Fourth Amendment principles of privacy and protect both our data and us.

What is a “household”?

The PHPA defines a “household” as *any single or multiple family dwelling, including but not limited to a single family home, house, apartment, mobile home, trailer, building, condominium, duplex, townhouse, or other living quarters, and immediately surrounding area, used or intended to be used as a dwelling place.*

What does this include?

To remain consistent with Fourth Amendment jurisprudence, the PHPA *must* include those devices that have the capacity to record and store private data from within the home and its “curtilage,” or immediately surrounding area of a home.

- Courts have consistently recognized that “the area around the home is intimately linked to the home, both physically and psychologically,” and is where “privacy expectations are most heightened.” *Fla. v. Jardines*, 569 U.S. 1, 6-7, 133 S. Ct. 1409, 1414–15, 185 L. Ed. 2d 495 (2013).
- The scope of this area can depend on the type of home:
 - *Single family home: larger curtilage (includes front porch, driveway, fenced yard, etc.)*
 - *Apartment: smaller curtilage, limited to the building (landing outside apartment door in building)*

This means that a “household electronic device” includes both the devices *inside* of the home, as well as those on the outside capturing the *immediately surrounding area* of a home.

Examples:	Smart doorbells	Smart cameras	Smart locks
	Smart garage openers	Smart lights	Smart displays

To limit the PHPA to only devices *inside* a home and not recognize the privacy rights of those stepping onto the front porch of a home to a ring a smart doorbell that is recording them would be an inconsistent interpretation of the law.

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