



September 2, 2022

Honorable Gavin Newsom  
Governor of California

**Re: A.B. 1242 (Bauer-Kahan) – Request for signature**

Dear Governor Newsom:

The Electronic Frontier Foundation (EFF) respectfully urges you to sign A.B. 1242, authored by Assemblymember Bauer-Kahan. This bill would protect the data privacy of people who seek abortion, by limiting how California-based entities disclose abortion-related information. This is of growing urgency in the wake of the *Dobbs* decision, as anti-choice states increasingly attempt to investigate and punish abortion seekers based on their internet browsing, private messaging, and phone app location data.

EFF works to ensure that technology supports freedom, justice, and innovation for all people in the world. It is a non-profit with more than 35,000 active donors, founded in 1990 and based in San Francisco. It represents the interests of technology users in courts and legislatures.

A.B. 1242 would take four important strides towards data privacy for abortion seekers. First, it would limit information disclosures by electronic communication service providers that are incorporated in California or have their principal offices here. Specifically, these companies would be prohibited from, in California, providing information in response to out-of-state legal process that relates to a “prohibited violation,” see Sec. 9, meaning an out-of-state law against providing or obtaining an abortion that is lawful in California, see Sec. 2.



Second, the bill would bar state and local agencies and their employees from providing information to any individual or out-of-state agency regarding an abortion that is lawful in California and performed here. This rule would also ban such disclosures to a federal law enforcement agency, to the extent permitted by federal law. See Sec. 11.

Third, the bill would partially repeal an existing California law that requires some California businesses to cooperate with some out-of-state legal process. Specifically, under current law, if a California corporation is an electronic communication service or remote computing service, and it receives an out-of-state warrant for communications content or other specified customer information, then that corporation must produce those records as if the warrant was issued by a California judge. See Cal Penal Code 1524.2(c). The bill would forbid such disclosures when the corporation knows or should know that the warrant relates to a prohibited violation. Further, the bill would require such warrants to attest that the evidence is not sought to investigate a prohibited violation. See Sec. 8.

Fourth, the bill would partially repeal existing California laws that allow courts to authorize three types of digital surveillance. These are: (i) interception of communications content, see Cal Penal Code 629.51 & .52; (ii) pen registers and trap and trace devices for communications metadata, see Cal Penal Code 638.50 & .51; and (iii) warrants to search things consisting of evidence of crime, which can include computers and similar devices, see Cal Penal Code 1524. The bill would forbid such surveillance for the purpose of investigating prohibited violations. See Sec 2-5 & 7.

Again, we urge you to sign A.B. 1242, which takes strong steps towards protecting the data privacy of abortion seekers. We



look forward to working with you and the California Assembly to do even more to make California a data sanctuary for abortion seekers. If you have any questions or concerns, please do not hesitate to contact me at [adam@eff.org](mailto:adam@eff.org).

Sincerely,

Adam Schwartz  
Senior Staff Attorney