



The Honorable Carl E. Heastie
Speaker
New York Assembly
Albany, NY 12224

April 28, 2026

The Honorable Andrea Stewart-Cousins
Majority Leader
New York State Senate
Albany, NY 12224

CC: The Honorable Kathy Hochul
Governor, State of New York
New York State Capitol
Albany, NY 12224

Re: LETTER OF SUPPORT from Woodhull Freedom Foundation — S.8603 (Ramos) / A.9377
(Shimsky), Constitutional Right to Personal Privacy

The Woodhull Freedom Foundation is a national organization whose mission is to affirm sexual freedom as a fundamental human right. Woodhull protects and defends individuals' rights across the United States to enjoy sexual dignity, privacy, and consensual sexual expression without societal or governmental interference, coercion or stigmatization. While we work nationally, we have staff who call New York home, and as an organization, we have a long history of advocating for legislation to protect the sexual freedom of New Yorkers. This work includes ensuring advances in surveillance technology do not come at the expense of sexual freedom and human rights, nor unjustly surveil vulnerable communities. Woodhull therefore strongly supports S.8603 (Ramos) / A.9377 (Shimsky), a concurrent resolution proposing an amendment to Article I of the New York State Constitution to protect the right to personal privacy.

New Yorkers face an unprecedented convergence of threats to their personal privacy. At the federal level, the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022), eliminated the federal constitutional right to reproductive privacy that had stood for nearly fifty years, demonstrating that rights once thought settled can be swept away. Simultaneously, the expansion of federal enforcement powers—including Immigration and Customs Enforcement (ICE) directives authorizing warrantless home entries—and the federal government's increasing reliance on mass data collection have made clear that federal protections alone are insufficient to safeguard New Yorkers' most personal information and intimate decisions. Trans and nonbinary New Yorkers are also particularly vulnerable to increased surveillance as their right to gender-affirming healthcare is

threatened at the federal level. States play a critical line of defense to protect trans and nonbinary people's access to lifesaving medical treatment, along with their privacy when seeking care.

Eleven states have responded to these challenges by enshrining explicit rights to privacy in their constitutions: Alaska, Arizona, California, Florida, Hawaii, Illinois, Louisiana, Montana, New Hampshire, South Carolina, and Washington. See Tiffany C. Li, *State Constitutional Rights to Privacy*, 59 Ga. L. Rev. 1307 (2025). These provisions were adopted in two waves: the first during the 1960s and 1970s in response to growing concerns about government surveillance and technological change; and the second more recently, with New Hampshire amending its constitution in 2018. In states that have adopted these amendments, courts have consistently interpreted them to provide protections beyond those of the Fourth Amendment, including rejecting warrantless pen register surveillance, warrantless searches of curbside garbage, and other intrusions that federal courts have permitted. See, e.g., *State v. Gunwall*, 106 Wash. 2d 54, 720 P.2d 808 (1986); *State v. Tanaka*, 67 Haw. 658, 701 P.2d 1274 (1985).

S.8603 / A.9377 would add a new Section 20 to Article I of the New York State Constitution, providing: "The right of the people to privacy is recognized and shall not be infringed. In applying this section, a court shall consider the nature and extent of the information which may be obtained, if any, and the nature and extent of the intrusion." The amendment's language draws primarily from the constitutional provisions of Alaska and Hawaii, both of which recognize that "the right of the people to privacy . . . shall not be infringed." Alaska Const. art. I, § 22; Haw. Const. art. I, § 6. The resolution also incorporates standards developed under Washington's judicially interpreted privacy clause, which the Washington Supreme Court has recognized as providing "greater protection to an individual's right of privacy than that guaranteed by the Fourth Amendment." *State v. Gunwall*, 106 Wash. 2d 54, 64, 720 P.2d 808, 813 (1986). By drawing on these models, S.8603 / A.9377 is designed to be interpreted broadly and to provide New Yorkers with privacy protections that exceed those available under the federal Constitution.

A state constitutional right to privacy would provide critical protection for New Yorkers' substantive due process rights at a time when the federal right is in retreat. The Dobbs Court's holding that rights must be "deeply rooted in this Nation's history and tradition" to receive substantive due process protection, *Dobbs*, 597 U.S. at 243, has cast doubt on the continued vitality of other privacy-adjacent rights recognized under the Fourteenth Amendment. These are rights that are fundamental to protecting sexual freedom, including access to contraception, intimate personal relationships, and medical decision-making.

The real-world consequences of eroding privacy protections are already laid bare in states like Idaho, where officials used location data from cell phones to charge a mother and her son with "aiding and abetting abortion." These dangers also threaten New Yorkers, though, as corporations expose people's private data for financial gain, just as the company Near Intelligence did when they sold an anti-abortion

group the location data of people who visited Planned Parenthood clinics or when a marketing company used people's location data to direct targeted advertisements for abortion alternatives to them when visiting reproductive health clinics. LGBTQ individuals are also put at risk by the breaches in privacy empowered by a waning Fourth Amendment. Whether they are subject to forced outing or blackmailed for going to gay clubs or other gay social settings, numerous types of invasions of personal privacy, whether from lax data sharing and disclosure practices or compulsion by the federal government, constitute a very real risk to the safety of the LGBTQ community. This is evidenced by a conservative Catholic group buying location data from a private-sector data broker to identify and report gay priests to their bishops. Using deanonymization protocols, this group was able to identify individuals using location pings and other data that is ultimately identifying, no matter the promises of the protection of anonymization.

Making a state constitutional privacy amendment would place the right to sexual freedom on an independent and more secure footing, insulating New Yorkers from further retrenchment by the federal courts. States that have adopted similar provisions have relied on them to protect precisely these kinds of decisional privacy interests. See, e.g., *Valley Hosp. Ass'n v. Mat-Su Coal. for Choice*, 948 P.2d 963, 969 (Alaska 1997), holding that reproductive rights are “fundamental” and “encompassed within the right to privacy” under the Alaska Constitution.

Separately, a state constitutional right to privacy would fortify protections against government surveillance beyond what the Fourth Amendment currently provides. The federal Fourth Amendment doctrine has failed to keep pace with modern surveillance technologies. Under the third-party doctrine, the federal government may access vast quantities of personal data—including location records, financial transactions, and communications metadata—simply by purchasing it from commercial data brokers, circumventing any warrant requirements entirely. See *Carpenter v. United States*, 585 U.S. 296, 316 (2018) (recognizing that “seismic shifts in digital technology” require revisiting the applicability of the Fourth Amendment to new surveillance techniques). States with constitutional privacy protections have consistently gone further than the Fourth Amendment, requiring warrants where federal courts have not. See, e.g., *State v. Rothman*, 70 Haw. 546, 779 P.2d 1 (1989) (requiring a warrant for pen register under Hawaii's privacy clause); *State v. Boland*, 115 Wash. 2d 571, 800 P.2d 1112 (1990) (requiring a warrant for curbside garbage search under Washington's privacy clause). The proposed amendment would empower New York courts to develop similarly protective jurisprudence addressing emerging threats, including facial recognition technology, geofence warrants, predictive policing systems, and government purchases of commercial surveillance data.

For these reasons, Woodhull urges the Legislature to pass S.8603 / A.9377 and begin the process of amending the New York State Constitution to include an express right to personal privacy. As federal privacy protections continue to erode, New York has an opportunity to join the eleven states that have already secured this fundamental right for their residents—and to become a national leader in

protecting New Yorkers from both governmental overreach and the novel privacy threats posed by rapidly advancing surveillance technologies.

Sincerely,

A handwritten signature in black ink, reading "Ricci Joy Levy".

Ricci Joy Levy
President & CEO
Woodhull Freedom Foundation