

# U.S. Rep. Fitzgerald: Introduces the Non-Disclosure Order (NDO) Fairness Act

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WASHINGTON, DC – Congressman Scott Fitzgerald (WI-05) introduced, H.R. 3089, the *NDO Fairness Act*. This bipartisan legislation reins in prosecutorial abuse and executive branch overreach by strengthening the standards prosecutors must meet when seeking to place non-disclosure orders (NDOs) on service providers.

This bill will prevent federal prosecutors from using indefinite, and often boilerplate, secrecy orders to access third-party communications data. It will also ensure an individual is notified, within 90 days, when their data was searched, and allow that individual to request a copy of any information disclosed.

*“The federal government has abused its authority to access the personal data of individuals under investigation, **said Congressman Scott Fitzgerald.** Unfortunately, those under investigation are neither informed of the search nor given a remedy to defend themselves and their data privacy rights. This legislation would bolster privacy protections to be comparable to those in a physical office or workplace while providing a much-needed check on the federal government’s surveillance authorities.”*

Read the bill [here](#).

## **BACKGROUND**

The legal protections currently available to Americans fail to provide a meaningful check against the government when it demands your data from entities such as third-party service providers. By exploiting a provision of the Electronic Communications Privacy Act, prosecutors can request a subject’s electronic

communications data, such as their e-mails, photos, and phone records, from a third-party service provider, even when the subject of the search is not suspected of wrongdoing. These boilerplate NDOs often face no judicial review and provide little remedy for victims to challenge the search in court. This lack of transparency inevitably leads to overuse and abuse. In June 2021, the House Judiciary Committee held a [hearing](#) on the federal government's abuse of secrecy orders.