

HOUSE BILL NO. 603

INTRODUCED BY ZOLNIKOV

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A GOVERNMENT ENTITY MUST OBTAIN A SEARCH WARRANT PRIOR TO OBTAINING LOCATION INFORMATION OF AN ELECTRONIC DEVICE; AND PROVIDING EXCEPTIONS, DEFINITIONS, AND A CIVIL PENALTY."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Location information privacy -- civil penalty. (1) Except as provided in subsection (2), a government entity may not obtain the location information of an electronic device without a search warrant issued by a duly authorized court.

(2) A government entity may obtain location information of an electronic device under any of the following circumstances:

- (a) the device is reported stolen by the owner;
- (b) in order to respond to the user's call for emergency services;
- (c) with the informed, affirmative consent of the owner or user of the electronic device; or
- (d) there exists ~~an immediate~~ A POSSIBLE life-threatening situation.

(3) Any evidence obtained in violation of this section is not admissible in a civil, CRIMINAL, or administrative proceeding and may not be used in an affidavit of probable cause in an effort to obtain a search warrant.

(4) A violation of this section will result in a civil fine not to exceed \$50.

NEW SECTION. Section 2. Definitions. As used in [section 1] and this section, the following definitions apply:

(1) "Electronic communication service" means a service that provides to users of the service the ability to send or receive wire or electronic communications.

(2) "Electronic device" means a device that enables access to or use of an electronic communication service, remote computing service, or location information service.

(3) "Government entity" means ~~a state or local~~ ANY PUBLIC agency, including but not limited to a law



1 enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission
2 or an individual acting or purporting to act for or on behalf of a ~~state or local~~ PUBLIC agency.

3 (4) "Location information" means information concerning the location of an electronic device that, in
4 whole or in part, is generated or derived from or obtained by the operation of an electronic device.

5 (5) "Location information service" means the provision of a global positioning service or other mapping,
6 locational, or directional information service.

7 (6) "Remote computing service" means the provision of computer storage or processing services by
8 means of an electronic communications system.

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10 NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified
11 as an integral part of Title 46, chapter 5, and the provisions of Title 46, chapter 5, apply to [sections 1 and 2].

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