

AMENDED IN SENATE APRIL 21, 2014

SENATE BILL

No. 828

Introduced by Senators Lieu and Anderson
(Coauthor: Senator Padilla)

January 6, 2014

An act to add Chapter 32.5 (commencing with Section 7599) to Division 7 of Title 1 of the Government Code, relating to state and local government, and declaring the urgency thereof, to take effect immediately. *government.*

LEGISLATIVE COUNSEL'S DIGEST

SB 828, as amended, Lieu. ~~Privacy.~~ *Assistance to federal agencies.*

The United States Constitution provides that it and other federal laws are the supreme law of the land. The 4th Amendment to the United States Constitution sets forth the right against unreasonable searches and seizures by the federal government and prohibits a federal warrant from being issued unless there is probable cause, supported by an oath or affirmation, that particularly describes the place to be searched, and the person or thing to be seized.

This bill would enact the 4th Amendment Protection Act and prohibit the state, a political subdivision of the state, an employee of the state or a political subdivision of the state while acting in his or her official capacity, or a corporation while providing services on behalf of the state or a political subdivision of the state from materially supporting or assisting, as specified, a federal agency or federal agent in collecting from providing material support, participation, or assistance to any federal agency attempting the illegal and unconstitutional collection of electronic data or metadata, without consent, of any person pursuant to any action not based on a warrant that particularly describes the

person, place, and thing to be searched or seized, *or in accordance with judicially recognized exceptions to warrant requirements.* ~~This bill would prohibit the use of electronic data or metadata provided by the federal government or a corporation that was obtained without a federal warrant, as specified, from being used in a state or local criminal investigation or prosecution. This bill would also express the Legislature’s intent in this regard and provide that its provisions are severable if part of the act is declared invalid.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 32.5 (commencing with Section 7599)
2 is added to Division 7 of Title 1 of the Government Code, to read:

3
4 CHAPTER 32.5. THE 4TH AMENDMENT PROTECTION ACT

5
6 ~~7599. The Legislature finds and declares that it is the policy~~
7 ~~of this state to refuse material support, participation, or assistance~~
8 ~~to any federal agency that claims the power, by virtue of any federal~~
9 ~~law, rule, regulation, or order, to authorize the collection of~~
10 ~~electronic data or metadata of any person pursuant to any action~~
11 ~~not based on a warrant that particularly describes the person, place,~~
12 ~~and thing to be searched or seized.~~

13 *7599. The state shall not provide material support,*
14 *participation, or assistance to any federal agency attempting the*
15 *illegal and unconstitutional collection of electronic data or*
16 *metadata, without consent, of any person not based on a warrant*
17 *that particularly describes the person, place, and thing to be*
18 *searched or seized, or in accordance with judicially recognized*
19 *exceptions to warrant requirements.*

20 ~~7599.5. Notwithstanding any other law, the state, a political~~
21 ~~subdivision of the state, an employee of the state or a political~~
22 ~~subdivision of the state while acting in his or her official capacity,~~
23 ~~or a corporation while providing services on behalf of the state or~~
24 ~~a political subdivision of this state shall not do any of the following:~~

1 ~~(a) Provide material support, participation, or assistance in any~~
2 ~~form to a federal agency that claims the power, by virtue of any~~
3 ~~federal law, rule, regulation, or order, to collect electronic data or~~
4 ~~metadata of any person pursuant to any action not based on a~~
5 ~~warrant that particularly describes the person, place, and thing to~~
6 ~~be searched or seized.~~

7 ~~(b) Utilize any assets or public funds, in whole or in part, to~~
8 ~~engage in any activity that aids a federal agency, federal agent, or~~
9 ~~corporation while providing services to the federal government in~~
10 ~~the collection of electronic data or metadata of any person pursuant~~
11 ~~to any action not based on a warrant that particularly describes the~~
12 ~~person, place, and thing to be searched or seized.~~

13 ~~(c) Provide services, participation, or assistance to a federal~~
14 ~~agency, federal agent, or corporation while providing services to~~
15 ~~the federal government in the collection of electronic data or~~
16 ~~metadata of any person pursuant to any action not based on a~~
17 ~~warrant that particularly describes the person, place, and thing to~~
18 ~~be searched or seized.~~

19 ~~(d) Use any information in a criminal investigation or~~
20 ~~prosecution provided by any federal agency, agent, or corporation~~
21 ~~that was obtained through the collection of electronic data or~~
22 ~~metadata of any person pursuant to any action not based on a~~
23 ~~warrant that particularly describes the person, place, and thing to~~
24 ~~be searched or seized.~~

25 ~~7599.10. The provisions of this chapter are severable. If any~~
26 ~~provision of this chapter or its application is held invalid, that~~
27 ~~invalidity shall not affect other provisions or applications that can~~
28 ~~be given effect without the invalid provision or application.~~

29 ~~SEC. 2. This act is an urgency statute necessary for the~~
30 ~~immediate preservation of the public peace, health, or safety within~~
31 ~~the meaning of Article IV of the Constitution and shall go into~~
32 ~~immediate effect. The facts constituting the necessity are:~~

33 ~~To help protect Californians from unconstitutional invasions of~~
34 ~~their privacy by the federal government, it is necessary for this act~~
35 ~~to take immediate effect.~~