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HOUSE BILL 1193

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State of Washington                      65th Legislature                      2017 Regular Session

By Representatives Taylor, Shea, McCaslin, Young, and J. Walsh

1            AN ACT Relating to the Fourth Amendment protection act; adding a  
2 new chapter to Title 42 RCW; prescribing penalties; and declaring an  
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.**    This act may be known and cited as the  
6 Fourth Amendment protection act.

7            NEW SECTION.    **Sec. 2.**    It is the policy of this state to refuse  
8 material support, participation, or assistance to any federal agency  
9 which claims the power, or with any federal law, rule, regulation, or  
10 order which purports to authorize, the collection of electronic data  
11 or metadata of any person pursuant to any action not based on a  
12 warrant that particularly describes the person, place, and thing to  
13 be searched or seized.

14            NEW SECTION.    **Sec. 3.**    Notwithstanding any law, regulation, rule,  
15 or order to the contrary, an agency of this state, political  
16 subdivision of this state, or employee of an agency or political  
17 subdivision of this state acting in his or her official capacity, or  
18 corporation providing services on behalf of this state or a political  
19 subdivision of this state, may not:

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

7 (2) Utilize any assets, state funds, or funds allocated by the  
8 state to local entities on or after the effective date of this  
9 section, in whole or in part, to engage in any activity that aids a  
10 federal agency, federal agent, or corporation providing services to  
11 the federal government in the collection of electronic data or  
12 metadata of any person pursuant to any action not based on a warrant  
13 that particularly describes the person, place, and thing to be  
14 searched or seized;

15 (3) Provide services, or participate or assist in any way with  
16 the providing of services, to a federal agency, federal agent, or  
17 corporation providing services to the federal government which is  
18 involved in the collection of electronic data or metadata of any  
19 person pursuant to any action not based on a warrant that  
20 particularly describes the person, place, and thing to be searched or  
21 seized;

22 (4) Use any information in a criminal investigation or  
23 prosecution provided by any federal agency, agent, or corporation  
24 providing services to the federal government, which was obtained  
25 through the collection of electronic data or metadata of any person  
26 pursuant to any action not based on a warrant that particularly  
27 describes the person, place, and thing to be searched or seized.

28 NEW SECTION. **Sec. 4.** (1) A political subdivision of this state  
29 may not receive state grant funds if the political subdivision adopts  
30 a rule, order, ordinance, or policy under which the political  
31 subdivision violates section 3 of this act. State grant funds for the  
32 political subdivision must be denied for the fiscal year following  
33 the year in which a final judicial determination in an action brought  
34 under this section is made that the political subdivision has  
35 intentionally required actions which violate the prohibitions in  
36 section 3 of this act.

37 (2) Any agent or employee of this state or of any political  
38 subdivision of this state who knowingly violates the prohibitions in  
39 section 3 of this act is deemed to have resigned any commission from

1 the state of Washington which he or she may possess, his or her  
2 office is deemed vacant, and he or she is forever ineligible to any  
3 office of trust, honor, or emolument under the laws of this state.

4 (3) Any corporation or person that provides services to or on  
5 behalf of this state and violates the prohibitions of section 3 of  
6 this act is forever ineligible to act on behalf of, or provide  
7 services to, this state or any political subdivision of this state.

8 (4) Any officer, employee, or agent, of this state or of any  
9 political subdivision of this state who knowingly violates the  
10 prohibitions in section 3 of this act is guilty of a gross  
11 misdemeanor.

12 (5) Any corporation or person providing services to or on behalf  
13 of this state knowing that the provision violates the prohibitions in  
14 section 3 of this act is guilty of a misdemeanor.

15 (6) The attorney general, prosecuting attorney, city attorney,  
16 city prosecutor, or any citizen of the county may maintain an action  
17 against the state or political subdivision, any agent or employee of  
18 the state or political subdivision, or any corporation or person  
19 providing services to or on behalf of the state or political  
20 subdivision to abate and perpetually enjoin any violation of the  
21 prohibitions in section 3 of this act. A citizen who brings an action  
22 under this subsection (6) and prevails is entitled to actual damages,  
23 including damages to the citizen's business or reputation, caused by  
24 the violation and reasonable attorneys' fees and other costs of  
25 litigation. An action may not be maintained against any public  
26 official or citizen for bringing an action when the action was  
27 brought in good faith.

28 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act  
29 constitute a new chapter in Title 42 RCW.

30 NEW SECTION. **Sec. 6.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

34 NEW SECTION. **Sec. 7.** This act is necessary for the immediate  
35 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes  
2 effect immediately.

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