

Introduced by Senators Lieu and AndersonJanuary 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.

LEGISLATIVE COUNSEL'S DIGEST

SB 828, as introduced, Lieu. Privacy.

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 electronic data or metadata 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. 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: 2/3. 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 7599.5. Notwithstanding any other law, the state, a political
14 subdivision of the state, an employee of the state or a political
15 subdivision of the state while acting in his or her official capacity,
16 or a corporation while providing services on behalf of the state or
17 a political subdivision of this state shall not do any of the following:

18 (a) Provide material support, participation, or assistance in any
19 form to a federal agency that claims the power, by virtue of any
20 federal law, rule, regulation, or order, to collect electronic data or
21 metadata of any person pursuant to any action not based on a
22 warrant that particularly describes the person, place, and thing to
23 be searched or seized.

24 (b) Utilize any assets or public funds, in whole or in part, to
25 engage in any activity that aids a federal agency, federal agent, or
26 corporation while providing services to the federal government in
27 the collection of electronic data or metadata of any person pursuant
28 to any action not based on a warrant that particularly describes the
29 person, place, and thing to be searched or seized.

30 (c) Provide services, participation, or assistance to a federal
31 agency, federal agent, or corporation while providing services to

1 the federal government in the collection of electronic data or
2 metadata of any person pursuant to any action not based on a
3 warrant that particularly describes the person, place, and thing to
4 be searched or seized.

5 (d) Use any information in a criminal investigation or
6 prosecution provided by any federal agency, agent, or corporation
7 that was obtained through the collection of electronic data or
8 metadata of any person pursuant to any action not based on a
9 warrant that particularly describes the person, place, and thing to
10 be searched or seized.

11 7599.10. The provisions of this chapter are severable. If any
12 provision of this chapter or its application is held invalid, that
13 invalidity shall not affect other provisions or applications that can
14 be given effect without the invalid provision or application.

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

19 To help protect Californians from unconstitutional invasions of
20 their privacy by the federal government, it is necessary for this act
21 to take immediate effect.