

HOUSE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

April 23, 2013  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB13-1308 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 3, line 9, strike "COMMUNICATIONS OR INTERNET
- 2 ACCESS" and substitute "WIRELESS TELECOMMUNICATIONS".
- 3 Page 3, line 11, strike "CALL".
- 4 Page 3, line 12, strike "ANY" and substitute "A NAMED".
- 5 Page 3, line 16, after "TO THE" insert "NAMED".
- 6 Page 3, line 17, after "IN THE" insert "NAMED".
- 7 Page 3, line 23, strike "COMMUNICATIONS" and substitute "WIRELESS
- 8 TELECOMMUNICATIONS".
- 9 Page 3, line 24, strike "OR INTERNET ACCESS".
- 10 Page 4, line 6, after "AGENCY;" add "AND".
- 11 Page 4, line 9, strike "CALL".
- 12 Page 4, line 10, strike "BELIEVED IN GOOD FAITH" and substitute
- 13 "ASSERTED".
- 14 Page 4, strike lines 15 through 22 and substitute:

1 "INCREASE SUCH RISK.  
2 (II) THE WIRELESS TELECOMMUNICATIONS PROVIDER SHALL  
3 RETAIN A RECORD OF THE STATEMENT IN ACCORDANCE WITH THE  
4 PROVIDER'S PROTOCOLS FOR DOCUMENT RETENTION RELATING TO THIS  
5 SUBSECTION (1.5).  
6 (c) A WIRELESS TELECOMMUNICATIONS PROVIDER MAY ESTABLISH  
7 PROTOCOLS BY WHICH THE PROVIDER DISCLOSES LOCATION INFORMATION,  
8 PROVIDED THAT SUCH PROTOCOLS INCLUDE KEEPING A RECORD OF:  
9 (I) THE NAME OF THE SUPERVISING REPRESENTATIVE OF A LAW  
10 ENFORCEMENT AGENCY THAT REQUESTED THE LOCATION INFORMATION;  
11 AND  
12 (II) THE TIME AND DATE WHEN THE REQUEST WAS MADE.  
13 (d) WITH REGARD TO COMPLIANCE WITH THE REQUIREMENTS OF  
14 THIS SUBSECTION (1.5), NO CAUSE OF ACTION MAY BE BROUGHT AGAINST  
15 ANY WIRELESS TELECOMMUNICATIONS PROVIDER, ITS OFFICERS,  
16 EMPLOYEES, AGENTS, OR OTHER SPECIFIED PERSONS FOR PROVIDING  
17 LOCATION INFORMATION IN RESPONSE TO A REQUEST FROM A LAW  
18 ENFORCEMENT AGENT WITH ACTUAL OR APPARENT AUTHORITY TO ACT AS  
19 A SUPERVISING REPRESENTATIVE UNDER THIS SUBSECTION (1.5)."

20 Reletter succeeding paragraphs accordingly.

21 Page 5, strike line 4 and substitute:

22 "(f) (I) NOT MORE THAN FORTY-EIGHT HOURS AFTER ORDERING A".

23 Page 5, line 5, strike "COMMUNICATIONS OR" and substitute "WIRELESS  
24 TELECOMMUNICATIONS".

25 Page 5, line 6, strike "INTERNET ACCESS".

26 Page 5, strike lines 8 through 13 and substitute:

27 "SHALL REQUEST A COURT ORDER STATING WHETHER:

28 (A) AT THE TIME THAT THE SUPERVISING REPRESENTATIVE OF A  
29 LAW ENFORCEMENT AGENCY ORDERED THE PREVIOUSLY DESIGNATED  
30 SECURITY EMPLOYEE OF A WIRELESS TELECOMMUNICATIONS PROVIDER TO  
31 PROVIDE THE INFORMATION, THE SUPERVISING REPRESENTATIVE HAD  
32 PROBABLE CAUSE TO BELIEVE THAT THE CONDITIONS DESCRIBED IN  
33 PARAGRAPH (a) OF THIS SUBSECTION (1.5) EXISTED; AND

34 (B) THE LAW ENFORCEMENT AGENCY MAY RETAIN THE  
35 INFORMATION FOR A BONA FIDE INVESTIGATIVE PURPOSE.

36 (II) UNLESS A COURT ORDERS THAT THE LAW ENFORCEMENT

1 AGENCY MAY RETAIN THE INFORMATION FOR A BONA FIDE INVESTIGATIVE  
2 PURPOSE, AS DESCRIBED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I)  
3 OF THIS PARAGRAPH (d), THE LAW ENFORCEMENT AGENCY SHALL DESTROY  
4 THE INFORMATION AND NOT RETAIN ANY COPY OF THE INFORMATION FOR  
5 ANY PURPOSE.

6 (III) IF THE COURT ISSUES AN ORDER STATING THAT THE  
7 SUPERVISING REPRESENTATIVE OF THE LAW ENFORCEMENT AGENCY DID  
8 NOT HAVE PROBABLE CAUSE TO BELIEVE THAT THE CONDITIONS  
9 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) EXISTED AND  
10 THAT THE INFORMATION WAS NOT LAWFULLY OBTAINED, THEN NEITHER  
11 THE INFORMATION NOR ANY OTHER EVIDENCE THAT IS OBTAINED AS A  
12 RESULT OF THE LAW ENFORCEMENT AGENCY'S ACQUISITION OF THE  
13 INFORMATION MAY BE ADMITTED IN ANY SUBSEQUENT CRIMINAL  
14 PROCEEDING UNLESS THE INFORMATION OR OTHER EVIDENCE WAS ALSO  
15 ACQUIRED INDEPENDENTLY IN A LAWFUL MANNER.

16 (IV) ANY RULING BY A COURT THAT THE INFORMATION OBTAINED  
17 MAY BE RETAINED FOR A BONA FIDE INVESTIGATIVE PURPOSE SHALL NOT  
18 BE CONSIDERED A RULING ON THE ADMISSIBILITY OF THE EVIDENCE IN ANY  
19 CRIMINAL PROCEEDING UNDER THE CONSTITUTIONAL AND STATUTORY  
20 PROVISIONS OF THE UNITED STATES OR COLORADO."

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