

1 H.732

2 Introduced by Representatives Zagar of Barnard, Davis of Washington,

3 Komline of Dorset, and Stevens of Shoreham

4 Referred to Committee on

5 Date:

6 Subject: Criminal procedure; federal collection of electronic data and

7 metadata; prohibition on State participation or use without warrant

8 Statement of purpose of bill as introduced: This bill proposes to prohibit the

9 State from assisting or participating in the collection of electronic data or

10 metadata by the federal government or from using any of the data collected

11 unless it is obtained pursuant to a warrant issued by a court.

12 An act relating to prohibiting the State from using and participating in the  
13 collection of electronic data and metadata obtained by the federal  
14 government without a warrant

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. POLICY

17 It shall be the public policy of this State to refuse to provide material  
18 support for or assist or in any way participate in the collection of a person's  
19 electronic data or metadata by any federal agency or pursuant to any federal  
20 law, rule, regulation, or order unless the data is collected pursuant to a

1 judicially-issued warrant that particularly describes the persons, places, and  
2 things to be searched or seized.

3 Sec. 2. 13 V.S.A. § 15 is added to read:

4 § 15. FEDERAL COLLECTION OF ELECTRONIC DATA AND  
5 METADATA; PROHIBITION ON STATE PARTICIPATION OR USE  
6 WITHOUT WARRANT

7 (a) Notwithstanding any law to the contrary, an agency or political  
8 subdivision of this State, an employee of an agency or political subdivision of  
9 this State acting in his or her official capacity, or a person providing services  
10 on behalf of this State or a political subdivision of this State shall not:

11 (1) provide material support for or assist or in any way participate in the  
12 collection of a person's electronic data or metadata by any federal agency or  
13 pursuant to any federal law, rule, regulation, or order unless the data is  
14 collected pursuant to a judicially-issued warrant that particularly describes the  
15 persons, places, and things to be searched or seized;

16 (2) use State funds or funds received from the State to engage in any  
17 activity that aids a federal agency, federal agent, or person or corporation  
18 providing services to the federal government in the collection of a person's  
19 electronic data or metadata by any federal agency or pursuant to any federal  
20 law, rule, regulation, or order unless the data is collected pursuant to a

1 judicially-issued warrant that particularly describes the persons, places, and  
2 things to be searched or seized; or

3 (3) use any information in a criminal investigation or prosecution which  
4 was obtained through the collection of a person's electronic data or metadata  
5 by any federal agency or pursuant to any federal law, rule, regulation, or order  
6 unless the data is collected pursuant to a judicially-issued warrant that  
7 particularly describes the persons, places, and things to be searched or seized.

8 (b)(1) A political subdivision of this State shall not receive any State grant  
9 funds during the fiscal year following a judicial determination that the  
10 subdivision knowingly and intentionally violated subsection (a) of this section.

11 (2) A person providing services to or on behalf of this State who violates  
12 subsection (a) of this section shall thereafter be permanently prohibited from  
13 acting on behalf of or providing services to this State or any of its political  
14 subdivisions.

15 (c) A person whose electronic data or metadata is collected in violation of  
16 subsection (a) of this section shall have a cause of action against the person  
17 who collected the data to recover compensatory damages, punitive damages,  
18 and reasonable attorney's fees. The liability of the State under this subsection  
19 shall not exceed the amounts specified in 12 V.S.A. § 5601(b).

1       Sec. 3. SEVERABILITY

2           The provisions of this act are severable. If any part of this act is declared  
3       invalid or unconstitutional, that declaration shall not affect the part which  
4       remains.

5       Sec. 4. EFFECTIVE DATE

6           This act shall take effect on passage.