FOURTH AMENDMENT RIGHTS PROTECTION ACT

Act 71 of 2018

AN ACT to prohibit this state and certain other governmental agents, employees, and entities in this state from assisting a federal agency in obtaining certain forms of data without a warrant; and to prohibit certain uses of certain data collected without a warrant.

History: 2018, Act 71, Eff. June 17, 2018

The People of the State of Michigan enact:

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37.261 Short title.

Sec. 1.

This act shall be known and may be cited as the "Fourth Amendment rights protection act".

History: 2018, Act 71, Eff. June 17, 2018

37.262 Definitions.

Sec. 2.

As used in this act:

(a) "Electronic data" means information related to an electronic communication or the use of an electronic communication service, including, but not limited to, the contents, sender, recipients, or format of an electronic communication; the precise or approximate location of the sender or recipients of an electronic communication at any time during the communication; the time or date the communication was created, sent, or received; and the identity of an individual or device involved in the communication, including, but not limited to, an internet protocol address. The term does not include subscriber information.

(b) "Metadata" means information generally not visible when an electronic document is printed describing the history, tracking, or management of the electronic document, including information about data in the electronic document that describes how, when, and by whom the data were collected, created, accessed, or modified and how the data are formatted. The term does not include any of the following:

(i) A spreadsheet formula.

(ii) A database field.

(iii) An externally or internally linked file.

(iv) A reference to an external file or hyperlink.

History: 2018, Act 71, Eff. June 17, 2018

37.263 Collection of electronic data or metadata by federal agency; assistance or support by state or political subdivision; limitation; circumstances.

Sec. 3.

This state or a political subdivision of this state shall not assist, participate with, or provide material support or resources to a federal agency to enable it to collect or to facilitate in the collection or use of a person's electronic

data or metadata, unless 1 or more of the following circumstances apply:

(a) The person has given informed consent.

(b) The action is pursuant to a warrant that is based upon probable cause and particularly describes the person, place, or thing to be searched or seized.

(c) The action is in accordance with a legally recognized exception to warrant requirements.

(d) The action will not infringe on any reasonable expectation of privacy the person may have.

(e) This state or a political subdivision of this state collected the electronic data or metadata legally.

History: 2018, Act 71, Eff. June 17, 2018

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