

FOURTH AMENDMENT RIGHTS PROTECTION ACT

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<http://www.house.mi.gov/hfa>

House Bill 4430 (proposed substitute H-1)

Sponsor: Rep. Martin Howrylak

Committee: Judiciary

Complete to 11-27-17

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4430 would create the Fourth Amendment Rights Protection Act to restrict when the state may assist a federal agency in obtaining a person's electronic data or metadata.

Under the bill, the state, or a political subdivision of the state, would be prohibited from assisting, participating with, or providing material support or resources to a federal agency in the collection or use of a person's electronic data or metadata unless one or more of the following circumstances apply:

- The person whose data or metadata are being collected or used gives informed consent to that collection or use.
- The action is conducted under a warrant that is based upon probable cause and particularly describes the person, place, or thing to be searched or seized.
- The action is in accordance with a legally recognized exception to warrant requirements.

Definitions

"Electronic data" would be defined by the bill as information related to an electronic communication or the use of an electronic communication service, including, but not limited to, the following:

- 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.
- The identity of an individual or device involved in the communication, including, but not limited to, an internet protocol address.

Electronic data would specifically exclude subscriber information.

"Metadata" would mean 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. Metadata would specifically exclude any of the following:

- A spreadsheet formula.
- A database field.

- An externally or internally linked file.
- A reference to an external file or hyperlink.

The bill would take effect 90 days after its enactment.

FISCAL IMPACT:

The bill would have no direct fiscal impact on the state or local governments.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.