

117TH CONGRESS
2D SESSION

H. R. 8662

To require a report on the purchase and use by the Department of Defense of certain location data and internet metadata data, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 2022

Ms. JACOBS of California introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To require a report on the purchase and use by the Department of Defense of certain location data and internet metadata data, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Data Privacy
5 Act”.

1 **SEC. 2. REPORT ON PURCHASE AND USE BY DEPARTMENT**
2 **OF DEFENSE OF LOCATION DATA GEN-**
3 **ERATED BY AMERICANS' PHONES AND THEIR**
4 **INTERNET METADATA.**

5 (a) REPORT REQUIRED.—Not later than 90 days
6 after the date of the enactment of this Act, the Secretary
7 of Defense shall submit to the congressional defense com-
8 mittees and make available to the public on an internet
9 website of the Department of Defense a report that—

10 (1) identifies each covered entity that is cur-
11 rently, or during the five-year period ending on the
12 date of the enactment of this Act was, without a
13 court order—

14 (A) obtaining in exchange for anything of
15 value any covered records; and

16 (B) intentionally retaining or intentionally
17 using such covered records; and

18 (2) for each covered entity identified pursuant
19 to paragraph (1), identifies—

20 (A) each category of covered record the
21 covered entity, without a court order, is obtain-
22 ing or obtained, in exchange for anything of
23 value;

24 (B) whether the covered entity inten-
25 tionally retained or is intentionally retaining

1 each category of covered records pursuant to
2 subparagraph (A);

3 (C) whether the covered entity inten-
4 tionally uses or used each category of covered
5 records identified pursuant to subparagraph
6 (A); and

7 (D) whether such obtaining, retention, and
8 use ceased before the date of the enactment of
9 this Act or is ongoing.

10 (b) FORM.—The report submitted under subsection
11 (a) shall be submitted in unclassified form.

12 (c) DETERMINATION OF PARTIES TO A COMMUNICA-
13 TION.—In determining under this section whether a party
14 to a communication is likely to be located inside or outside
15 the United States, the Secretary shall consider the Inter-
16 net Protocol (IP) address used by the party to the commu-
17 nication, but may also consider other information known
18 to the Secretary.

19 (d) DEFINITIONS.—In this section:

20 (1) The term “congressional defense commit-
21 tees” has the meaning given that term in section
22 101(a) of title 10, United States Code.

23 (2) The term “covered entities” means the De-
24 fense Agencies, Department of Defense activities,
25 and components of the Department that—

1 (A) are under the authority, direction, and
2 control of the Under Secretary of Defense for
3 Intelligence and Security; or

4 (B) over which the Under Secretary exer-
5 cises planning, policy, funding, or strategic
6 oversight authority.

7 (3) The term “covered records” includes the
8 following:

9 (A) Location data generated by phones
10 that are likely to be located in the United
11 States.

12 (B) Domestic phone call records.

13 (C) International phone call records.

14 (D) Domestic text message records.

15 (E) International text message records.

16 (F) Domestic netflow records.

17 (G) International netflow records.

18 (H) Domestic Domain Name System
19 records.

20 (I) International Domain Name System
21 records.

22 (J) Other types of domestic internet
23 metadata.

24 (K) Other types of international internet
25 metadata.

1 (4) The term “domestic” means a telephone or
2 an internet communication in which all parties to
3 the communication are likely to be located in the
4 United States.

5 (5)(A) The term “international” means a tele-
6 phone or an internet communication in which one or
7 more parties to the communication are likely to be
8 located in the United States and one or more parties
9 to the communication are likely to be located outside
10 the United States.

11 (B) The term “international” does not include
12 a telephone or an internet communication in which
13 all parties to the communication are likely to be lo-
14 cated outside the United States.

15 (6) The term “obtain in exchange for anything
16 of value” means to obtain by purchasing, to receive
17 in connection with services being provided for con-
18 sideration, or to otherwise obtain in exchange for
19 consideration, including an access fee, service fee,
20 maintenance fee, or licensing fee.

21 (7)(A) Except as provided in subparagraph (B),
22 the term “retain” means the storage of a covered
23 record.

24 (B) The term “retain” does not include the
25 temporary storage of a covered record that will be,

1 but has not yet been, subjected to a process in which
2 the covered record, which is part of a larger compila-
3 tion containing records that are not covered records,
4 are identified and deleted.

5 (8)(A) Except as provided in subparagraph (B),
6 the term “use”, with respect to a covered record, in-
7 cludes analyzing, processing, or sharing the covered
8 record.

9 (B) The term “use” does not include subjecting
10 the covered record to a process in which the covered
11 record, which is part of a larger compilation con-
12 taining records that are not covered records, are
13 identified and deleted.

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