

Senate Bill 904

Sponsored by Senators SHIELDS, KNOPP, Representatives WILLIAMSON, HUFFMAN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Joint Legislative Committee on Privacy and Civil Liberties Oversight. Directs committee to analyze annual reports from public bodies and prepare report detailing findings and recommendations for legislation to ensure privacy and civil liberties. Requires committee to make report available to public.

Requires public body that uses surveillance equipment or services to develop written policy governing that use. Requires public body to prepare annual report detailing use of surveillance equipment and services and specifies contents of report. Requires that public body submit report to Joint Legislative Committee on Privacy and Civil Liberties Oversight.

A BILL FOR AN ACT

1
2 Relating to the Joint Legislative Committee on Privacy and Civil Liberties Oversight.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. The Legislative Assembly finds that:**

5 (1) **The right of privacy is fundamental in a free and civilized society.**

6 (2) **An individual's privacy is directly affected when the government uses advanced technology or surveillance equipment or services for the purpose of monitoring, recording or preserving data on the behavior or activity of an individual or group of individuals.**

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9 (3) **When legal protections for personal privacy fail to keep up with evolving technology, the delicate balance of power between an individual and the government is disturbed in a manner destructive to the personal freedom that is essential to democracy.**

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12 (4) **The rapid development of advanced technology or surveillance equipment or services that can monitor, record and preserve personal and private information has made it necessary for the people to establish laws to protect against the government's abuse and overuse of the technologies.**

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15 (5) **The people of the State of Oregon have the right to know:**

16 (a) **Whether public bodies are using advanced technology or surveillance equipment or services for the purpose of monitoring, recording or preserving data on the behavior or activity of an individual or group of individuals;**

17 (b) **Whether public bodies are using advanced technology or surveillance equipment or services at the time that the technology, equipment or services are being used; and**

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20 (c) **By what means and for what purpose the technology, equipment and services are used and how and for what period of time the information obtained from the technology, equipment and services is retained or shared.**

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23 **SECTION 2. (1) The Joint Legislative Committee on Privacy and Civil Liberties Oversight is established and consists of:**

24 (a) **Two members of the Senate appointed by the President of the Senate; and**

25 (b) **Two members of the House of Representatives appointed by the Speaker of the House**

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NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 of Representatives.

2 (2) The committee has a continuing existence and may meet, act and conduct business
3 during sessions of the Legislative Assembly or any recess, and in the interim between ses-
4 sions.

5 (3) The term of a member shall expire upon the earlier of:

6 (a) The date of the convening of the odd-numbered year regular session of the Legislative
7 Assembly next following the commencement of the member's term; or

8 (b) The date of the convening of an organizational session of the odd-numbered year
9 regular session of the Legislative Assembly next following the commencement of the
10 member's term.

11 (4) Members of the committee shall receive an amount equal to that authorized under
12 ORS 171.072 from funds appropriated to the Legislative Assembly for each day spent in the
13 performance of their duties as members of the committee.

14 (5) The committee may not transact business unless a quorum is present. For purposes
15 of this section, a quorum consists of a majority of committee members.

16 (6) Action by the committee requires the approval of a majority of committee members.

17 (7) The purpose of the committee is to:

18 (a) Document and analyze the actions of public bodies that use surveillance equipment
19 and services;

20 (b) Make recommendations as to whether the use of surveillance equipment and services
21 by public bodies, both individually and in the aggregate, protects privacy and civil liberties;

22 (c) Ensure that the public is informed about the use of surveillance equipment and ser-
23 vices by public bodies contemporaneously with the use of the equipment and services; and

24 (d) Ensure that the public is informed about the data that is collected or acquired by
25 surveillance equipment and services used by public bodies, how the data is used or shared,
26 the purpose for which the data is used and for what period of time the data is retained.

27 (8) The committee shall receive and analyze the annual reports submitted by public
28 bodies under section 3 of this 2015 Act and make findings and recommendations to ensure
29 that the use of surveillance equipment and services is balanced with the need to protect
30 privacy and civil liberties.

31 (9)(a) The committee shall publish, at least every two years, a report that includes:

32 (A) The findings and recommendations resulting from the analysis of annual reports
33 submitted by public bodies; and

34 (B) Recommendations for legislation to ensure that the use of surveillance equipment
35 and services is continually balanced with the need to protect privacy and civil liberties.

36 (b) The committee shall make the report available to the public on a website and, as ap-
37 propriate, hold public hearings or otherwise inform the public of the committee's findings
38 and recommendations.

39 **SECTION 3.** (1) As used in this section and sections 1 and 2 of this 2015 Act:

40 (a) "Public body" has the meaning given that term in ORS 174.109.

41 (b) "Surveillance equipment" means electronic, mechanical or other devices or programs
42 that are capable of systematically collecting, storing or transmitting data, including infor-
43 mation, images, photographs and video and audio recordings, and that are used by or at the
44 direction of a public body for the purpose of monitoring, observing or analyzing the behavior
45 or activity of an individual or group of individuals, regardless of whether the data obtained

1 from the devices is obscured, deidentified or anonymized before or after collection.

2 (c) "Surveillance service" means a service provided to a public body by a third party that
3 results in the acquisition of data, including information, images, photographs and video and
4 audio recordings, and that is used for the purpose of monitoring, observing or analyzing the
5 behavior or activity of an individual or group of individuals, regardless of whether the data
6 acquired by the service is obscured, deidentified or anonymized before or after collection.

7 (2) For each public body that purchases or uses surveillance equipment or services, the
8 public body's highest elected official or, if the public body does not have an elected official,
9 the individual in charge of operating or directing the public body shall develop and make
10 publicly available written policies and procedures governing the use of surveillance equip-
11 ment or services by the public body. Prior to adoption of the written policies and procedures,
12 the official or the individual shall provide notice and opportunity for public comment on the
13 proposed policies and procedures.

14 (3) For every calendar year in which a public body has purchased or used surveillance
15 equipment or services, the public body must prepare a report. The report must, at a mini-
16 mum, include the following information:

17 (a) The specific type of surveillance equipment or service used by the public body, in-
18 cluding the name, model and year of manufacture of any surveillance equipment, the nature
19 of any surveillance service and the identity of the provider of the service;

20 (b) The quantity of each type of surveillance equipment owned, operated or used by the
21 public body;

22 (c) If newly acquired within the calendar year of the report, the manner in which the
23 surveillance equipment or service was acquired and, if the surveillance equipment or service
24 was purchased, the cost;

25 (d) The cost of maintenance, including the cost of service agreements, for each type of
26 surveillance equipment or service owned, operated or used within the calendar year of the
27 report;

28 (e) The boundaries of the area within which the surveillance equipment or services were
29 used;

30 (f) The specific kinds of data, including information, images, photographs and video and
31 audio recordings, collected or acquired by the surveillance equipment or services;

32 (g) Whether the surveillance equipment or services were operated or used continuously
33 or only under specific circumstances and whether the equipment was installed permanently
34 or only for a limited period of time;

35 (h) The extent to which the behavior or activity of an individual or group of individuals
36 was monitored in real time as data was collected or acquired by the surveillance equipment
37 or services and the extent to which, and under what circumstances, monitoring of histor-
38 ically recorded information occurred;

39 (i) The purposes for which data collected or acquired by each type of surveillance equip-
40 ment or service was used;

41 (j) The length of time for which data collected or acquired by each type of surveillance
42 equipment or service is retained;

43 (k) The protocols that exist to monitor and track individuals who are granted access to
44 data collected or acquired by the surveillance equipment or services;

45 (L) Whether data collected or acquired by surveillance equipment or services was ob-

1 tained from or shared with third parties, including other public bodies, and, if applicable, the
2 identity of each third party, the data obtained from or shared with the third party and under
3 what circumstances the data was obtained or shared;

4 (m) The specific steps taken to mitigate the impact on an individual's privacy when the
5 public body used the surveillance equipment or services, including protocols to minimize the
6 collection or acquisition of data and protections against unauthorized use and unauthorized
7 disclosure of data;

8 (n) The identity of the unit or individuals responsible for ensuring compliance with the
9 public body's written policies and procedures governing the use of surveillance equipment
10 and services;

11 (o) A point of contact for persons to file complaints, request information and express
12 concerns about the public body's use of surveillance equipment or services; and

13 (p) An appendix containing the public body's written policies and procedures governing
14 the use of surveillance equipment and services as described in subsection (2) of this section.

15 (4) Each public body required to prepare the report described in subsection (3) of this
16 section shall submit the report for the previous calendar year by March 1 to the Joint Leg-
17 islative Committee on Privacy and Civil Liberties Oversight.

18 (5) A public body that fails to submit the report by the date described in subsection (4)
19 of this section shall terminate use of all surveillance equipment and services until the report
20 is submitted.

21 **SECTION 4.** The deadline set forth in section 3 (4) of this 2015 Act for the submission
22 of reports by public bodies first applies March 1, 2017, for reports for calendar year 2016 and
23 thereafter applies to reports for all subsequent calendar years.

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