

Cell Phone Search Incident to Arrest Senate Bill 641 - Summary

Problem: The type of data stored on a smartphone or other portable electronic device can paint a near-complete picture of even the most private details of someone's personal life. Before the age of smartphones, it was impossible for police to gather this much private information about a person's communication, historical movements, and private life during an arrest. Today, many police officers routinely search the contents of a person's cell phone during an arrest encounter. Sometimes officers do so with the aid of companies like Cellebrite¹ that produce tools that strip a cell phone of all of its data on the scene. Such searches are a highly concerning invasion of privacy and are unconstitutional.



Proposal: This bill affirms that individuals are entitled to smartphone privacy and that government agencies can only search a cell phone with a search warrant based on probable cause.

Additional Context: In June of 2014 in *Riley v. California*, the Supreme Court unanimously ruled that police must obtain a warrant before searching the contents of a cell phone seized from someone who has been arrested, absent a true emergency situation

Details: Defines "location information service," "portable electronic device," and "public body."

- Directs that no information contained in a portable electronic device shall be subject to search by a state or local public body, including a search incident to a lawful arrest or for inventory purposes, except pursuant to a warrant or when there is an imminent threat to public safety.
- Requires expeditious return of any portable electronic device searched by government.
- Remedy for violation is that no information obtained in violation can be used in a court or other proceeding, nor used to establish reasonable suspicion or probable cause that an offense has been committed.



ACLU of Oregon Legislative Info Sheet

contact: info@aclu-or.org | last updated 2.11.2015

¹ <http://www.cellebrite.com/>