

# Geolocation Privacy and Surveillance Act Introduced in US Congress

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On February 15, the ***Geolocation Privacy and Surveillance Act (GPS Act)*** was introduced by a bipartisan group of US Congress members. Designed to enact comprehensive rules for both government agencies and commercial service providers, the GPS Act would require law enforcement to obtain a warrant before using GPS data to track an individual's location and would require service providers to obtain customer consent before sharing geolocation data with outside entities.

The GPS Act is intended to provide clarity regarding the procedures and protections that apply to devices that can be used to track the whereabouts of individuals—including GPS units, cell phones, tablets, and laptops. Existing law applicable to the access and use of geolocation data has not kept pace with developments in technology, which has created issues for both government agencies and private entities.

For example, courts have created differing standards on what procedures must be followed for government agencies to obtain geolocation data from commercial service providers, thereby creating conflicting obligations across jurisdictions. In addition, current law lacks uniform and comprehensive rules applicable to both the use of real-time location tracking techniques and access to records containing historical geolocation data.

To solve these problems, the GPS Act would establish a process for law enforcement agencies to obtain a warrant to acquire the geolocation data held by private entities and a process for such agencies to obtain a warrant for using technology to directly monitor or track the location of individuals. The act would also prohibit service providers from disclosing geolocation data of customers that the service providers collect in the normal course of business unless lawful consent is obtained from the customer(s) or such disclosure is otherwise authorized under the act (e.g., through a warrant).

As noted in Senator Ron Wyden's press release, the GPS Act has received praise from both technology and civil rights organizations. Co-sponsor Rep. John Conyers stated that "[g]eolocation tracking, whether information about where we have been or where we are going, strikes at the heart of personal privacy interests. . . [W]e need this legislation to provide a strong and clear legal standard

to protect this information.”

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