A BILL

To address voluntary location tracking of electronic communications devices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Location Privacy Protection Act of 2014”.

SEC. 2. DEFINITION.

In this Act, the term “geolocation information” has the meaning given that term in section 2713 of title 18, United States Code, as added by this Act.
SEC. 3. VOLUNTARY LOCATION TRACKING OF ELECTRONIC COMMUNICATIONS DEVICES.

(a) In General.—Chapter 121 of title 18, United States Code, is amended by adding at the end the following:

§ 2713. Voluntary location tracking of electronic communications devices

“(a) Definitions.—In this section—

“(1) the term ‘covered entity’ means a non-governmental individual or entity;

“(2) the term ‘consent’ means affirmative express consent after receiving clear, prominent, and accurate notice that—

“(A) informs the individual that his or her geolocation information will be collected by the covered entity; and

“(B) identifies the categories of covered entities to which the geolocation information may be disclosed by the covered entity;

“(C) provides the individual a hyperlink or comparably easily accessible means to access the information specified in subsection (b)(4);

“(3) the term ‘electronic communications device’ means any device that—

“(A) enables access to, or use of, an electronic communications system, electronic com-
munication service, remote computing service, or geolocation information service; and

“(B) is commonly carried by or on the person of an individual or commonly travels with the individual, including in or as part of a vehicle the individual drives;

“(4) the term ‘geolocation information’—

“(A) means any information that—

“(i) is not the contents of a communication;

“(ii) is in whole or in part generated by or derived from the operation or use of an electronic communications device; and

“(iii) is sufficient to identify the street name and name of the city or town in which the device is located; and

“(B) does not include the Internet protocol address or the home, business, or billing address of the individual, or any component parts of such addresses; and

“(5) the term ‘geolocation information service’ means the provision of a global positioning service or other mapping, locational, or directional information service.
“(b) Collection or Disclosure of Geolocation Information to or by Nongovernmental Entities.—

“(1) In General.—Except as provided in paragraph (2), a covered entity may not knowingly collect or disclose to another covered entity the geolocation information from an electronic communications device without the consent of the individual that is using the electronic communications device.

“(2) Exceptions.—A covered entity may knowingly collect or disclose to another covered entity the geolocation information from an electronic communication device without consent if the collection or disclosure is—

“(A) to allow a parent or legal guardian to locate an unemancipated minor child or ward;

“(B) to allow a court-appointed guardian to locate a legally incapacitated person;

“(C) for the provision of fire, medical, public safety, or other emergency services;

“(D) pursuant to a court order in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by any other means, if the individual is—
“(i) given reasonable notice by the person seeking the disclosure of the court proceeding relevant to the issuance of the court order; and

“(ii) afforded the opportunity to appear and contest the claim of the person seeking the disclosure;

“(E) requested by a law enforcement agency of the United States, a State, or a political subdivision of a State pursuant to any lawful authority or activity, including chapter 119, the Federal Rules of Criminal Procedure, or any other provision of Federal or State law, if the covered entity uses the geolocation information collected in response to the request solely for law enforcement purposes;

“(F) necessary for network operation by a person that is subject to section 222 or 631 of the Communications Act of 1934 (47 U.S.C. 222 and 551), if the person uses the information solely for purposes of network operation;

“(G) for the sole purpose of transmitting the information to a person and in a circumstance described in subparagraph (A), (B), (C), (D), (E), or (F);
“(H) necessary to protect the property of
the covered entity or to protect the covered en-
tity’s customers or other covered entities from
fraudulent, abusive or unlawful conduct; or
“(I) conducted by any covered entity that
is not the covered entity that initially collected
the information from the electronic communi-
cations device.

In granting an order described in subparagraph (D),
the court shall impose appropriate safeguards
against unauthorized disclosure.

“(3) ANTI-STALKING PROTECTIONS.—Except
for an instance in which geolocation information is
being collected under the exception described in
paragraph (2)(E), a covered entity that initially col-
lects geolocation information from an electronic com-
munications device in a manner that the covered en-
tity has reason to believe is imperceptible to the in-
dividual using the electronic communications device
shall, in addition to obtaining consent under para-
graph (1), provide clear, prominent, and accurate
notice to the individual, not earlier than 24 hours
and not later than 7 days after the initial collection,
informing the individual that his or her geolocation
information is being collected and providing him or
her the information specified in paragraph (4).

“(4) **Publication of Information.**—A covered entity that collects the geolocation information
of more than 1,000 electronic communications de-

vices in a year shall maintain a publicly accessible
Internet website that includes—

“(A) the nature of the geolocation informa-

tion that the covered entity collects from elec-

tronic communications devices;

“(B) the purposes for which the covered

entity collects, uses, and discloses the informa-

tion;

“(C) the specific covered entities to which

the covered entity discloses geolocation informa-

tion; and

“(D) how an individual may electronically

revoke consent for the collection and disclosure

of geolocation information.

“(c) **Rulemaking.**—

“(1) **In general.**—The Attorney General

shall, in consultation with the Federal Trade Com-

mission, issue regulations to implement the require-

ments of this section. All regulations promulgated
under this section shall be issued in accordance with section 553 of title 5.

“(2) FLEXIBLE RULEMAKING.—In promulgating regulations under this section, the Attorney General shall—

“(A) avoid any regulatory requirement that would create redundant notifications or requests for consent, including in instances in which an individual has previously consented to the collection of his or her geolocation information or its disclosure to a particular category of individuals or entities; and

“(B) ensure that such regulations address the specific operational requirements of shared and legacy electronic communications devices.

“(d) CIVIL REMEDIES.—

“(1) ACTION BY ATTORNEY GENERAL OF THE UNITED STATES.—If the Attorney General of the United States has reasonable cause to believe that an individual or entity is violating this section or its implementing regulations, the Attorney General may bring a civil action in an appropriate United States district court.

“(2) RIGHT OF ACTION.—Any individual aggrieved by any action of an individual or entity in
violation of this section or its implementing regulations may bring a civil action in an appropriate United States district court.

“(3) RIGHTS OF ATTORNEY GENERAL.—

“(A) NOTICE.—

“(i) IN GENERAL.—Except as provided in clause (iii), an aggrieved person bringing a civil action under paragraph (2) shall notify the Attorney General in writing that the person intends to bring the action before initiating that action.

“(ii) CONTENTS.—A notification provided under clause (i) with respect to a civil action shall include a copy of the complaint to be filed to initiate the civil action.

“(iii) EXCEPTION.—If it is not feasible for the person to provide the notification required by clause (i) before initiating a civil action under paragraph (2), the person shall notify the Attorney General immediately upon instituting the civil action.

“(B) INTERVENTION.—The Attorney General may—
“(i) intervene in any civil action brought by an aggrieved person under paragraph (2); and

“(ii) upon intervening—

“(I) be heard on all matters arising in the civil action; and

“(II) file petitions for appeal of a decision in the civil action.

“(C) PREEMPTIVE ACTION.—If the Attorney General brings a civil action under paragraph (1), a person may not, during the pend- ency of such action, bring a civil action under paragraph (2) against any defendant named in the complaint of the Attorney General for any violation with respect to which the Attorney General instituted such action.

“(4) RELIEF.—

“(A) IN GENERAL.—In a civil action brought under this subsection, the court may award—

“(i) damages of not more than $5,000 per violation per day while such a violation exists, with a maximum of $500,000 per violation;
“(ii) punitive damages in an additional amount of not more than $5,000 per violation per day while such violation exists, with a maximum of an additional $500,000 per violation;

“(iii) reasonable attorney’s fees and other litigation costs reasonably incurred; and

“(iv) such other preliminary or equitable relief as the court determines to be appropriate.

“(B) Penalty Limits.—Notwithstanding any other provision of law, the total amount of civil penalties that may be imposed with respect to a covered entity that violates this section or its implementing regulations shall not exceed, for all violations resulting from the same or related acts or omissions, $1,000,000, unless the conduct is found to be willful or intentional. If a court determines that a violation was willful or intentional and imposes an additional penalty, the court may impose an additional penalty in accordance with subparagraph (A) in an amount that does not exceed $1,000,000.

“(5) Period of Limitations.—
“(A) IN GENERAL.—Except as provided in
subsection (B), a civil action may not be
brought under this subsection unless the civil
action is filed not later than 2 years after the
later of—

“(i) the date of the act complained of;

or

“(ii) the date of discovery of the act
complained of.

“(B) LIMITATION.—In no instance may a
civil action be brought under this subsection
after the date that is 10 years after the date of
the act complained of.”.

“(e) EFFECTS ON OTHER LAW.—

“(1) IN GENERAL.—This section shall super-
sede a provision of the law of a State or political
subdivision of a State that requires or allows collec-
tion or disclosure of geolocation information prohib-
ited by this section.

“(2) STATE CONSUMER PROTECTION LAWS.—
Nothing in this section shall be construed to pre-
empt the law of a State that grants greater con-
sumer protections relating to the collection, receipt,
recording, obtaining, or disclosure of geolocation in-
formation from electronic communications devices.
“(3) Rights and Remedies.—Nothing in this section shall be construed to effect the rights and remedies of any individual under any other State or Federal law.

“(4) Common Carriers and Cable Services.—This section shall not apply to the activities of an individual or entity to the extent the activities are subject to section 222 or 631 of the Communications Act of 1934 (47 U.S.C. 222 and 551).”.

(b) Technical and Conforming Amendments.—

Chapter 121 of title 18, United States Code, is amended—

(1) in the table of sections, by adding at the end the following:

“2713. Voluntary location tracking of electronic communications devices.”;

and

(2) in section 2702(c), by striking “A provider” and inserting “Except as provided under section 2713, a provider”.

(c) Effective Date; Applicability.—

(1) In General.—The amendments made by this section—

(A) shall take effect on the date of enactment of this Act; and

(B) except as provided in paragraph (2), shall apply on and after the date that is 180 days after the issuance of regulations under
section 2713(c) of title 18, United States Code, as added by subsection (a).

(2) Regulations.—Section 2713(c) of title 18, United States Code, as added by subsection (a), shall apply on the date of enactment of this Act.

SEC. 4. GEOLOCATION INFORMATION USED IN INTERSTATE DOMESTIC VIOLENCE OR STALKING.

(a) In General.—Chapter 110A of title 18, United States Code, is amended—

(1) by redesignating section 2266 as section 2267;

(2) by inserting after section 2265 the following:

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§ 2266. Geolocation information used in interstate domestic violence or stalking

(a) Offenses; Unauthorized Disclosure of Geolocation Information in Aid of Interstate Domestic Violence or Stalking.—A covered entity that—

(1) knowingly and willfully discloses geolocation information about an individual to another individual;

(2) knew that a violation of section 2261, 2261A, or 2262 would result from the disclosure;

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“(3) intends to aid in a violation of section 2261, 2261A, or 2262 as a result of the disclosure, shall be punished as provided in subsection (b).

“(b) PENALTIES.—A covered entity that violates subsection (a) shall be fined under this title, imprisoned for not more than 2 years, or both.”; and

(3) in section 2267, as so redesignated, by adding at the end the following:

“(11) COVERED ENTITY; GEOLOCATION INFORMATION.—The terms ‘covered entity’ and ‘geolocation information’ have the meanings given those terms in section 2713.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 10.—Section 1561a(b) of title 10, United States Code, is amended by striking “section 2266(5)” and inserting “section 2267(5)”.

(2) TITLE 18.—Title 18, United States Code, is amended—

(A) in section 113(b)(3), by striking “section 2266” and inserting “section 2267”;

(B) in section 1992(d)(14), by striking “section 2266” and inserting “section 2267”;

and

(C) in chapter 110A—
(i) in the table of sections, by striking the item relating to section 2266 and inserting the following:

“2266. Geolocation information used in interstate domestic violence or stalking.
2267. Definitions.”;

and

(ii) in section 2261(b)(6), by striking “section 2266 of title 18, United States Code,” and inserting “section 2267”.

(3) INDIAN CIVIL RIGHTS ACT OF 1968.—Section 204(a)(7) of Public Law 90–284 (25 U.S.C. 1304 et seq.) (commonly known as the “Indian Civil Rights Act of 1968”) is amended by striking “section 2266” and inserting “section 2267”.

(4) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Section 2011(c) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–5(c)) is amended by striking “section 2266” and inserting “section 2267”.

SEC. 5. FRAUDULENT COLLECTION OF GEOLOCATION INFORMATION.

(a) IN GENERAL.—Section 1039(h) of title 18, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (A), by striking “and” at the end;
(B) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(C) includes any geolocation information service.”;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

“(4) GEOLOCATION INFORMATION SERVICE.—
The term ‘geolocation information service’ means the provision of a global positioning service or other mapping, locational, or directional information service.”.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1039 of title 18, United States Code, is amended—

(A) in the section heading, by inserting “or geolocation” after “phone”;

(B) in subsection (a)—

(i) in the matter preceding paragraph (1), by inserting “or geolocation” after “phone”; and

(ii) in paragraph (4), by inserting “or geolocation” after “phone”;
(C) in subsection (b)—

(i) in the subsection heading, by inserting "OR GEOLOCATION" after "PHONE";

(ii) in paragraph (1), by inserting "or geolocation" after "phone" both places it appears; and

(iii) in paragraph (2), by inserting "or geolocation" after "phone";

(D) in subsection (c)—

(i) in the subsection heading, by inserting "OR GEOLOCATION" after "PHONE";

(ii) in paragraph (1), by inserting "or geolocation" after "phone" both places it appears; and

(iii) in paragraph (2), by inserting "or geolocation" after "phone"; and

(E) in subsection (h)(1)—

(i) in the paragraph heading, by inserting "OR GEOLOCATION" after "PHONE"; and

(ii) in the matter preceding subparagraph (A), by inserting "or geolocation" after "phone".
(2) Table of Sections.—The table of sections for chapter 47 of title 18, United States Code, is amended by striking the item relating to section 1039 and inserting the following:

“1039. Fraud and related activity in connection with obtaining confidential phone or geolocation records information of a covered entity.”.

(c) Sentencing Guidelines.—

(1) Review and Amendment.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under section 1039 of title 18, United States Code, as amended by this section.

(2) Authorization.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.
SEC. 6. PROHIBITING DEVELOPMENT AND DISTRIBUTION OF STALKING APPS.

(a) In General.—Section 2512 of title 18, United States Code, is amended—

(1) in the section heading, by striking “electronic communication” and inserting “electronic communications or geolocation information”; and

(2) by inserting “or geolocation information” after “or electronic communications” each place it appears.

(b) Technical and Conforming Amendment.—

The table of sections for chapter 119 of title 18, United States Code, is amended by striking the item relating to section 2512 and inserting the following:

“2512. Manufacture, distribution, possession, and advertising of wire, oral, or electronic communications or geolocation information intercepting devices prohibited.”.

SEC. 7. FORFEITURE OF PROCEEDS OF STALKING APPS.

(a) In General.—Section 2513 of title 18, United States Code, is amended—

(1) in the section heading, by striking “electronic communication” and inserting “electronic communications or geolocation information”; and

(2) by inserting “(a) In General.—” before “Any electronic”;
(3) in the first sentence, by inserting ‘‘, and
any proceeds from the use or sale of such a device,’’
after ‘‘section 2512 of this chapter’’; and
(4) by adding at the end the following:

‘‘(b) ANTI-STALKING FUND.—

‘‘(1) FUND.—There is established in the Treas-
ury a fund, to be known as the ‘Anti-Stalking Fund’
(referred to in this subsection as the ‘Fund’), to be
administered by the Attorney General.

‘‘(2) CREDITING OF AMOUNTS.—Notwith-
standing section 3302 of title 31, or any other law
regarding the crediting of money received for the
Government, there shall be deposited in the Fund an
amount equal to the value of any device and all pro-
ceeds forfeited to the United States under this sec-
tion, which shall remain available until expended.

‘‘(3) USE OF FUND.—The Attorney General
may, without further appropriation, use amounts in
the Fund to—

‘‘(A) develop and provide training to law
enforcement officers, prosecutors, judges, and
victim service personnel throughout the United
States regarding relevant Federal, State, terri-
torial, or local law and promising practices, pro-
cedures, and policies relating to investigating
and prosecuting stalking crimes; and
“(B) support help line and emergency re-
response efforts for stalking crimes.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—
The table of sections for chapter 119 of title 18, United
States Code, is amended by striking the item relating to
section 2513 and inserting the following:
“2513. Confiscation of wire, oral, or electronic communications or geolocation
information intercepting devices.”.

SEC. 8. INFORMATION GATHERING ON THE USE OF
GEOLOCATION DATA IN VIOLENCE AGAINST
WOMEN.

(a) NATIONAL CRIME VICTIMIZATION SURVEY.—As
soon as practicable and not later than 1 year after the
date of enactment of this Act, as part of each National
Crime Victimization Survey, the Attorney General shall in-
clude questions examining the role that various new tech-
nologies that use geolocation information may have in the
facilitation of domestic violence, dating violence, sexual as-
 assault, or stalking, including the use of—

(1) global positioning system technology;
(2) smartphone mobile applications;
(3) in-car navigation devices; and
(4) geo-tagging technology.
(b) NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY.—As soon as practicable and not later than 1 year after the date of enactment of this Act, as part of each National Intimate Partner and Sexual Violence Survey, the Director of the Center for Disease Control and Prevention shall include questions relating to the use of geolocation information as described in subsection (a).

e) CONSULTATION.—The Attorney General, acting through the Director of the Office on Violence Against Women and the Director of the National Institute of Justice, shall consult with representatives from the Federal agencies, offices of State attorneys general, national victim advocacy organizations, and the industries related to the technologies described in subsection (a) to assist in the coordination and collection of data described in subsection (a).

SEC. 9. GEOLOCATION CRIME INFORMATION AND REPORTING.

(a) IMPLEMENTATION.—The Attorney General shall direct the Internet Crime Complaint Center to provide education and awareness information to the public and law enforcement and register complaints regarding the abuse of geolocation information to commit domestic violence,
(b) CONSULTATIONS.—In determining what information will be provided to the public and collected in complaints under subsection (a), the Attorney General shall consult with nongovernmental entities that have demonstrated expertise relating to the abuse of the Internet or geolocation information to commit stalking, domestic violence, dating violence, sexual assault, or other related crimes.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that discusses and summarizes the information collected in complaints filed under subsection (a).

SEC. 10. NATIONAL GEOLOCATION CURRICULUM DEVELOPMENT.

(a) IN GENERAL.—The Attorney General, through the Director of the Office on Violence Against Women, may make grants to entities to develop and provide training to law enforcement officers, prosecutors, judges, and victim service personnel throughout the United States regarding relevant Federal, State, territorial, or local law
and promising practices, procedures, and policies relating to investigating and prosecuting the misuse of geolocation information in the commission of stalking, domestic violence, dating violence, sexual assault, and other crimes.

(b) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may reasonably require.