



# Rob Hutton

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STATE REPRESENTATIVE • 13<sup>TH</sup> ASSEMBLY DISTRICT

## Testimony of Representative Rob Hutton in Support of Senate Bill 432

Mr. Chairman and members of the Energy, Consumer Protection, and Government Reform Committee, I want to take this opportunity to thank you for allowing a public hearing on SB 432. The intent of this bill is to establish a clear guideline for law enforcement to obtain current or historic location information of a cellular telephone or other personal communication devices. The guidelines in this bill will;

- Provide clarity for law enforcement in tracking and obtaining criminal evidence.
- Enhance the integrity of the evidence submitted in court leading to proper convictions.
- Provide appropriate privacy protections for law abiding citizens.

Current law allows for law enforcement officers to request and use location information to identify or track the location of a personal communication device without first obtaining a court order. After thorough discussion with the Wisconsin Department of Justice and local law enforcement this bi-partisan legislation clearly outlines how law enforcement can obtain the location information of a personal communication device.

Based on probable cause, this bill allows for a law enforcement officer to apply for a warrant that authorizes the use of location information to identify or track a personal communication device. A judge may then issue a warrant authorizing the use of location information for a period of no more than 60 days, with the possibility of 60 day extensions upon request of the attorney general or district attorney.

There are emergency occurrences for law enforcement where time is of the essence. It is important to note this bill would protect law enforcement's ability to obtain cellular phone location information without a warrant in those emergencies. Situations involving a death or serious bodily harm to a person would be exempt from this law, and is consistent with federal Electronic Communications Privacy Act (ECPA).

I ask for your support of this bi-partisan legislation to help protect our local police officers and investigators, as well as the privacy of Wisconsin's citizens.

Thank you.



**Glenn  
Grothman**  
**STATE SENATOR**  
20TH SENATE DISTRICT

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January 21, 2013

To: Members of the Senate Committee on Energy, Consumer Protection, and Government Reform  
From: Senator Glenn Grothman  
Re: Senate Bill 432

Thank you for the opportunity to testify in support of Senate Bill 432.

In this age of rapidly advancing technology, it is often we find the use of certain technologies intersects with individual privacy rights during police investigations. To prevent against potential abuses, the legislature must establish guidelines to weigh the interests of law enforcement and private citizens to ensure a balance between the integrity of criminal investigations and the constitutional rights of individuals.

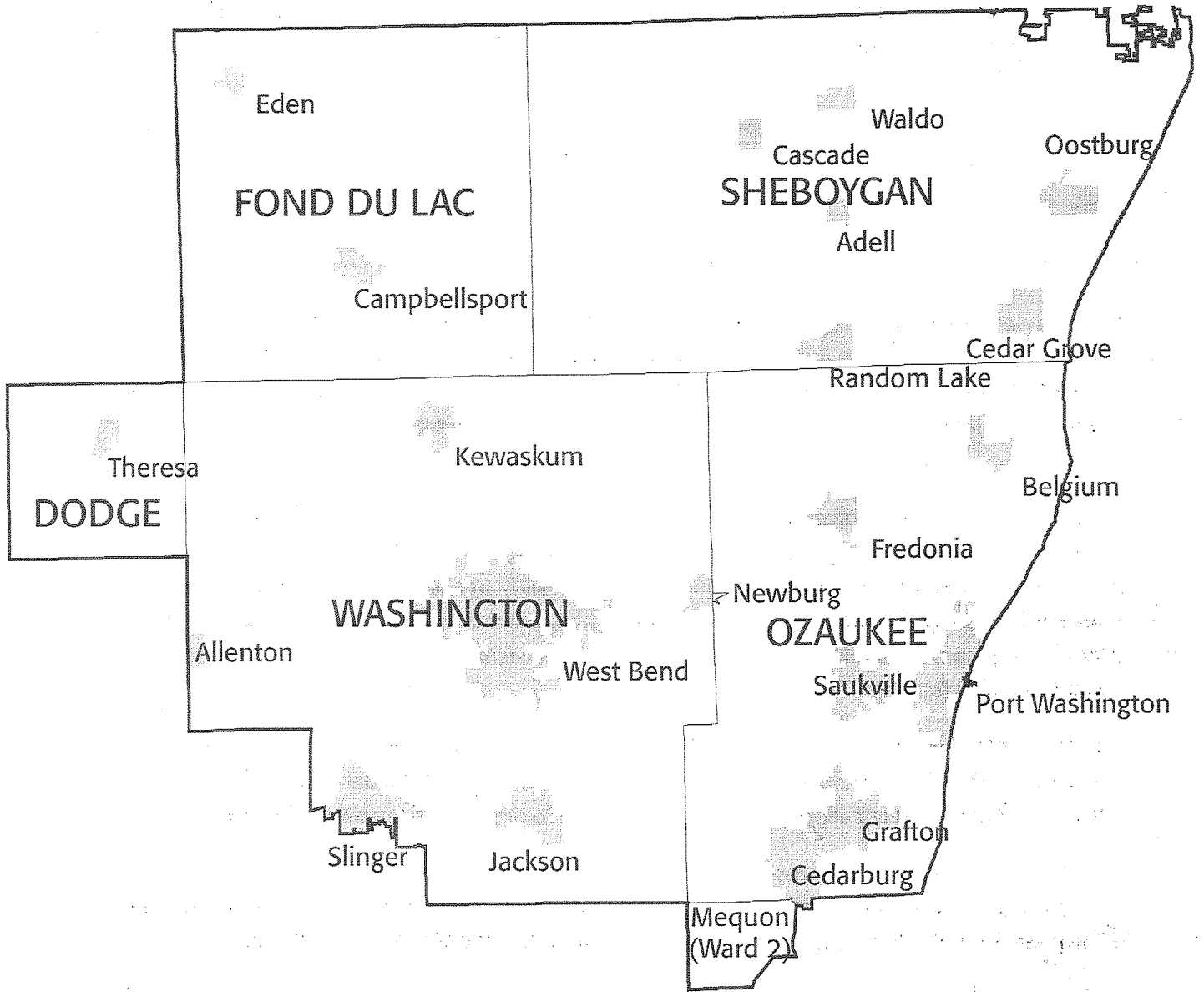
Current law allows law enforcement officers to request and use the location and tracking information from a personal communication device without first obtaining a warrant from the court. This bill prevents the tracking of personal communication devices without a warrant and provides a clear set of guidelines for law enforcement to obtain a warrant during criminal investigations. This bill also defines probable cause as the standard which will dictate a judge's decision to sign a warrant for personal communications tracking.

Another imperative aspect of this bill is to preserve law enforcement's ability to obtain immediate access to tracking data without a warrant in emergency situations where a delay could result in death or harm to a victim. This will allow an immediate response to time-sensitive safety concerns.

This important legislation balances the needs of law enforcement to conduct criminal investigations and the right to privacy for citizens of this state. As new technologies continue to emerge, it will be of great importance to continue addressing the intersections of technology and individual liberties.

Montana and Maine have recently enacted similar legislation with many states currently ushering bills through the legislative process. This issue is also being tested in many state and federal courts with numerous decisions upholding the need for a warrant before tracking mobile devices. Wisconsin can continue to be among the states leading the nation in addressing these important issues of privacy.

Please join me in support of this bill to protect the right to privacy of Wisconsin citizens and define law enforcement's ability to solve crimes.





January 21, 2014

**Rep. Melissa Sargent's Testimony Regarding Senate Bill 432**

Thank you, Mr. Chairman and committee members.

SB 432 is an important bill concerning our citizen's right to privacy.

Technology has surpassed our laws and therefore we need to bring our laws up to date.

This bill creates a legal framework for law enforcement seeking to track a suspect's movements electronically, putting in place uniform rules that would still allow officers to act quickly in an emergency.

The bill also ensures that if a person is found innocent, the data will be deleted; similar to the process of DNA collection in our criminal justice system.

Law enforcement would be unable to store cellphone user data after the legal process plays out. This is significant because it would mean that law enforcement could not legally build a database of mobile tracking records.

As I've spoken with people in Wisconsin about this bill, it's clear that the public doesn't understand how intrusive and accessible our location data is.

Location privacy is collected without notice every day and is currently available to law enforcement without the necessity of a warrant.

So what is location privacy? It is the ability of an individual to move in public space with the expectation that under normal circumstances their location will not be systematically and secretly recorded for later use. Most people assume that their metadata is held private, but that is not always the case.

Metadata on communication devices leaves a trail of everything you do in your daily life.

Some examples of this:

- Cell phone use
- A laptop
- A tablet computer

These devices can tell a specific picture of your daily activities:

- Who's house you visited
- Your place of worship
- A doctor's office you went to

- A political meeting you attended and who else was there.
- Your child's school that you stopped by

Because of this intimate portrait that metadata can create, this information should have a higher degree of protection under the law.

Location data can be vital to law enforcement, especially in cases where someone's life and safety may be threatened.

We have been careful to provide exceptions where law enforcement has access to that information under those circumstances.

By providing parameters for the collection of this high personal data, we are providing clear guidelines, and less chance for data to be found inadmissible in court. No officer wants to collect information on a potential crime, and then have it ruled inadmissible by a judge

SB 432 came about in an organic manner when I found out that Representative Hutton's office was working on a very similar piece of legislation. I'd like to thank him and his staff for their hard work and pragmatic leadership in working with my office on this important piece of legislation.

I'd also like to thank the Attorney General's office for their counsel and thoughtful input on the bill.

This is a win in many ways. It protects the citizens of Wisconsin, it shows that the legislature can work in a bi-partisan manner, and it keeps our laws up to date with ever evolving technology.

Thank you Mr. Chairman and committee members.