



# HOUSE OF REPRESENTATIVES

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Dear Members of the Judiciary Committee,

Thank you for the opportunity to continue work on this bill. The goal of this bill is to close gaps in warrant protections in Maine law regarding personal data generated online. Prior to the digital age, this personal data would be stored in a person's home, in their desk drawer or their filing cabinet. That information would be protected by the Fourth Amendment and a warrant would be required. Currently, this personal information is often stored online, and our warrant protections have not fully caught up. Over the years, Maine has been a leader on this issue. However, our law still has some gaps in protection and opportunities to improve.

LD 1576 seeks to close those gaps in warrant protections. Based on conversations about my goals with stakeholders, many of the protections that would be created by this bill are current practice, either by law enforcement or company policy.

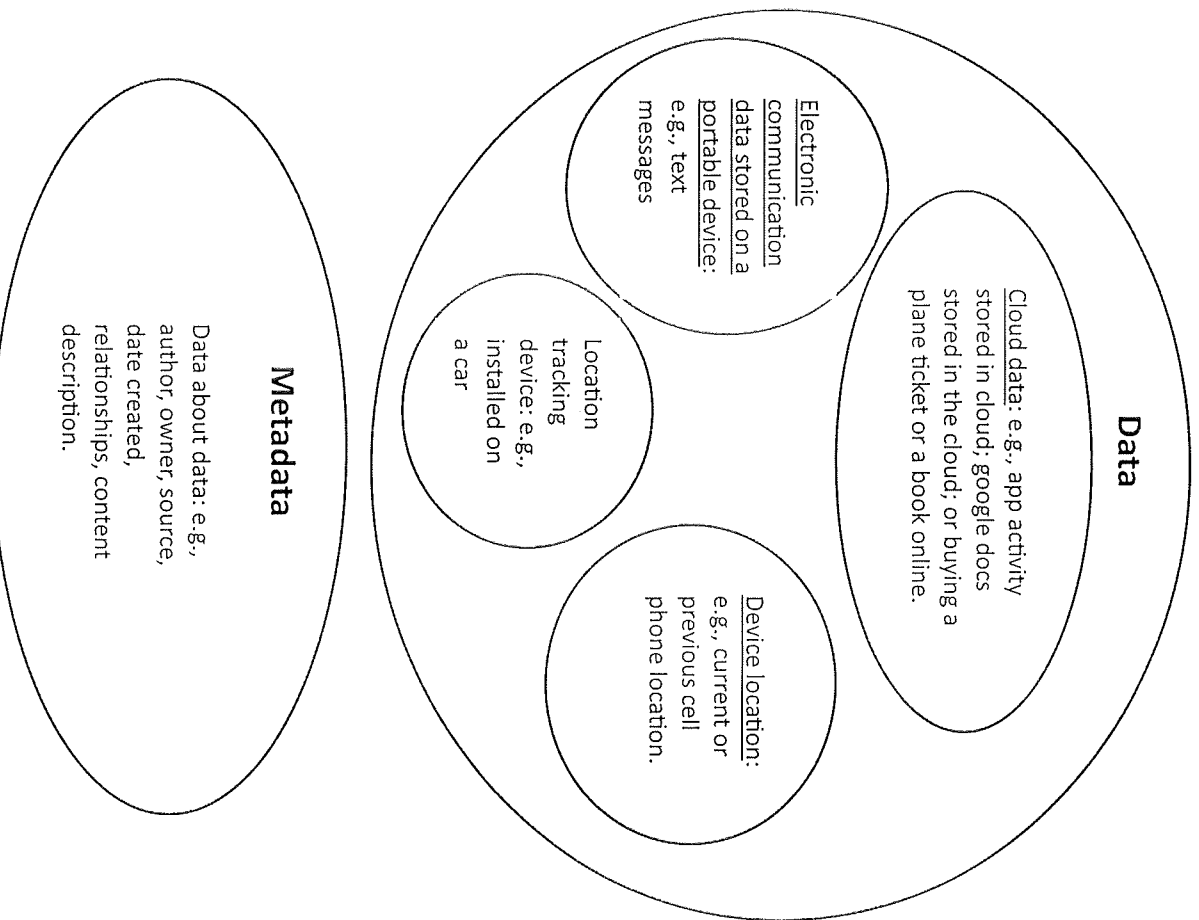
The bill language I submitted via LD 1576 is placeholder language. After submitting placeholder language, I reached out to the AG's office and others for input so that we could craft better language together (as a starting point, I used abbreviated language from the state of California and removed their long list of exceptions with the intent of working with stakeholders to craft appropriate language). Over the last year, I have met with interested parties to request input on language to bring to the committee. I have requested a map of current policy and practice from the Attorney General's office and prosecutors and will need that information to move forward with our conversations.

This fall, I will continue to meet with interested parties about the details of this proposal. I will identify any opportunities where we can work together to improve Maine's current law and bring that information back to the committee.

Thank you for your time,

Rep. Maggie O'Neil

H.D. 129, Saco



**Current Protections:**

1. Tracking device: e.g., installing a tracking device on a person's car. Protected. Maine statute currently requires a warrant to access.
2. Device location: e.g., accessing a person's cell phone location history or their current location. Protected. Maine statute currently requires a warrant to access.
3. Electronic communication data stored on portable devices: e.g., the content of a person's text messages stored on their cell phone. Protected. Maine statute requires a warrant to access.  
 Cloud data: e.g., any data generated by a person's online activity and stored in the cloud, rather than on a device. Opportunity to clarify protections in Maine statute, rather than leave protections to be determined by a patchwork of office and company policies.
  - Maine prosecutors: individual offices have policies of requiring a warrant.
  - AAG Rucha: law enforcement are generally (a) trained to get a warrant and (b) policy is to obtain a warrant, with some exceptions.
  - Individual company policy (e.g., Facebook) tends to require a warrant when law enforcement makes a request.
4. Metadata: e.g., email header containing sender's IP address and location, subject, and date. Opportunity to clarify in Maine statute.