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# SENATE BILL No. 156

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-21-8-59; IC 34-28-5-3.

**Synopsis:** Downloading of cell phone information by police. Prohibits a police officer from extracting or otherwise downloading information from a telecommunications device and retaining it as evidence pending trial for a violation of the law concerning typing, transmitting, or reading a text message while operating a motor vehicle unless: (1) the police officer has probable cause to believe that the telecommunications device has been used in the commission of a crime; or (2) the information is extracted or otherwise downloaded under a valid search warrant. Provides that if a law enforcement officer detains a person because the law enforcement officer believes the person has committed an infraction or ordinance violation, the law enforcement officer may not extract or otherwise download information from a cellular telephone or another wireless or cellular communications device possessed by the person at the time the person is detained unless: (1) the law enforcement officer has probable cause to believe that the cellular telephone or other wireless or cellular communications device has been used in the commission of a crime; or (2) the information is extracted or otherwise downloaded under a valid search warrant.

**Effective:** July 1, 2013.

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January 7, 2013, read first time and referred to Committee on Judiciary.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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## SENATE BILL No. 156



A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 9-21-8-59, AS ADDED BY P.L.185-2011,  
 2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2013]: Sec. 59. (a) A person may not use a  
 4 telecommunications device to:  
 5 (1) type a text message or an electronic mail message;  
 6 (2) transmit a text message or an electronic mail message; or  
 7 (3) read a text message or an electronic mail message;  
 8 while operating a moving motor vehicle unless the device is used in  
 9 conjunction with hands free or voice operated technology, or unless the  
 10 device is used to call 911 to report a bona fide emergency.  
 11 (b) A police officer may not:  
 12 (1) confiscate a telecommunications device for the purpose of  
 13 determining compliance with this section; **or**  
 14 (2) confiscate a telecommunications device and retain it as  
 15 evidence pending trial for a violation of this section; **or**  
 16 (3) **extract or otherwise download information from a**  
 17 **telecommunications device and retain it as evidence pending**



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**trial for a violation of this section unless:**  
**(A) the police officer has probable cause to believe that the telecommunications device has been used in the commission of a crime; or**  
**(B) the information is extracted or otherwise downloaded under a valid search warrant.**

SECTION 2. IC 34-28-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. **(a)** Whenever a law enforcement officer believes in good faith that a person has committed an infraction or ordinance violation, the law enforcement officer may detain that person for a time sufficient to:

- (1) inform the person of the allegation;
- (2) obtain the person's:
  - (A) name, address, and date of birth; or
  - (B) driver's license, if in the person's possession; and
- (3) allow the person to execute a notice to appear.

**(b) If a law enforcement officer detains a person because the law enforcement officer believes the person has committed an infraction or ordinance violation, the law enforcement officer may not extract or otherwise download information from a cellular telephone or another wireless or cellular communications device possessed by the person at the time the person is detained unless:**

- (1) the law enforcement officer has probable cause to believe that the:**
  - (A) cellular telephone; or**
  - (B) other wireless or cellular communications device;**
- has been used in the commission of a crime; or**
- (2) the information is extracted or otherwise downloaded under a valid search warrant.**

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