



## **AB 793 (Bonta) – Reverse Demands**

**California has been and must remain a true refuge for those seeking reproductive and gender-affirming healthcare.**

- People in California have a fundamental, inalienable, constitutional right to privacy in their personal reproductive and other healthcare decisions.
- The risk of a digital trail should not stand in the way of healthcare.

**People who need reproductive or gender-affirming care find themselves newly faced with a digital surveillance apparatus that could be used against them.**

- Nearly all of us carry smart phones, use social media, or allow apps to track our location as part of our daily routines.
- “Reverse demands” are a form of unconstitutional digital surveillance that pose an especially grave risk in a post-*Roe* America.

**Normal warrants require probable cause to investigate an individual, but reverse demands turn this due process on its head.**

- These demands can compel companies to search their records and reveal the identities of all people who looked up a particular keyword online or drove down a certain street.
- California-based companies are receiving more of these demands each year, and the demand will only rise as more states seek to criminalize abortions and gender-affirming healthcare.
- Thousands of people can be caught in a single request. One warrant issued in Los Angeles County asked for information about everybody within the equivalent of 24 football fields for several hours during a Friday morning commute.
- By simply being in a particular place as part of their daily lives, thousands have their privacy invaded for no reason at all.
- Reverse demands have been used to track the locations and identities of people protesting police violence and could easily be used to identify those whose digital trail shows they have visited certain healthcare providers or searched particular keywords online.

**Fishing expeditions from reverse-location and reverse-keyword demands undermine Californians’ fundamental right to privacy with respect to personal reproductive decisions and digital privacy.**

- Reverse demands can also chill the exercise of the freedom of speech, association, religion, assembly, movement, and the press.

**AB 793 will take overbroad and likely unconstitutional reverse demands off the table.**

- This bill will stop government entities from requesting reverse warrants, stop courts from issuing them, and ensure strong enforcement to protect our privacy rights.
- We need AB 793 to preserve our digital privacy and protect Californians’ rights to live life on our own terms.



# AB 793 (Bonta): Coalition Fact Sheet

## SUMMARY

In the face of a growing slate of anti-abortion and anti-trans laws in states across the country, California must remain a safe haven for those seeking reproductive and gender-affirming care. To do that, we must say no to invasive surveillance that would target people seeking needed healthcare here in California and beyond. AB 793 would preserve our right to safely seek reproductive and gender-affirming care in the digital age and protect us from invasive, harmful, and likely unconstitutional “reverse demands” that needlessly reveal our personal information.

## BACKGROUND

Carrying a smartphone, using social media, and allowing apps to track our location is a part of all of our daily routines. Our digital trail reveals much about us and must be safeguarded, especially when considering the rights and safety of people seeking reproductive and gender-affirming care. Right now, people who need this care find themselves newly faced with a digital surveillance apparatus that could be used against them due to changing politics across the country. California has already recognized this threat, but we must do more to fully protect vulnerable people seeking healthcare from digital tracking.

So-called “reverse demands”—“geofence demands,” or “keyword demands”—are a form of unconstitutional digital surveillance that pose an especially grave risk in a Post-Roe America. A normal warrant requires police to at least have probable cause to investigate an individual. Reverse demands turn this due process on its head: they can compel companies to search their records and reveal the identities of all people who looked up a particular keyword online or drove down a certain street. California-based companies are receiving more of these demands each year, and the demand will only rise as more states seek to criminalize abortions and gender-affirming healthcare.

A single request can cover thousands of people in one sweep. One warrant issued in Los Angeles County, for example, asked for the information of everyone within the equivalent of 24 football fields for several hours during a Friday morning commute. Just one request can reveal who was traveling between which exits, who was at home, who was visiting schools, religious institutions, union halls, bookstores or health clinics. By simply being in a particular place as part of their daily lives, thousands have their privacy invaded for no reason at all.

People in California have a fundamental, inalienable, constitutional right of privacy with respect to personal reproductive decisions and digital privacy. But fishing expeditions from reverse-location and reverse-keyword demands undermine that right—especially for people seeking abortions and gender-affirming care. Reverse demands can also chill the exercise of the freedom of speech, association, religion, assembly, movement, and the press. They have already been used to track the locations and identities of people protesting police violence. They could easily be used to request the names and identities of people whose digital trail shows they have visited California healthcare providers or searched for revealing keywords online. Current California protections can be circumvented if the police conceal the fact that they are investigating an abortion – for instance, by requesting a list of people in the vicinity of a grocery store next to a Planned Parenthood clinic rather than the clinic itself.

## SOLUTION

The risk of a digital trail should not stand in the way of healthcare. California must be a true refuge for people seeking or providing abortions or gender-affirming care. To do that, we must take these types of

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overbroad and likely unconstitutional reverse demands completely off the table. AB 793 stops government entities from requesting them, stops courts from issuing them and ensures strong enforcement to protect our privacy rights. We need AB 793 to preserve our digital privacy and protect Californians' right to live life on our own terms.

### SUPPORTERS

ACCESS Reproductive Justice	Secure Justice
ACLU California Action	Smart Justice California
All Family Legal	St. James Infirmary
All* Above All	TGI Justice Project
American Atheists	The Greenlining Institute
Atheists United	American Medical Women's Association
California Latinas for Reproductive Justice	Asian Americans Advancing Justice - CA
California Church IMPACT	Asian Americans Advancing Justice- Los Angeles
California Coalition for Women Prisoners	California Newspaper Publishers Association
California Public Defenders Association	Consumer Federation of America
Citizens for Choice	Consumer Federation of CA
Consumer Federation of California	Electronic Frontier Foundation
EPIC	If/When/How
Equal Rights Advocates	Media Justice
Equality California	MPower Alliance
Lawyers' Committee for Civil Rights of the San Francisco Bay Area	NARAL Pro-Choice California
LGBTQ Health & Human Services Network	National Lawyers Guild- Bay Area Chapter
Media Alliance	National Lawyers Guild- Los Angeles Chapter
MYA Network	Planned Parenthood Affiliates of California
National Abortion Federation	Privacy Rights Clearinghouse
National Center for Youth Law	Restore the Fourth
Oakland Privacy	Safer Streets LA
Reproductive Health Access Project - Northern California Chapter	Starting Over, Inc.
Reproductive Health Access Project - Southern California Chapter	TEACH
San Francisco Black & Jewish Unity Coalition	URGE: Unite for Reproductive & Gender Equity
	Women's Health Specialists
	World Privacy Forum