

2018 -- H 7755

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO CRIMINAL PROCEDURE - SEARCH WARRANTS

Introduced By: Representatives Filippi, Chippendale, Morgan, and Roberts

Date Introduced: February 28, 2018

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-5-10 of the General Laws in Chapter 12-5 entitled "Search
2 Warrants" is hereby amended to read as follows:

3 **12-5-10. Electronic communication services.**

4 (a) Definitions. As used in this section:

5 (1) "Content" means, with respect to any electronic communication, any and all
6 information concerning the substance, purport, or meaning of that communication.

7 (2) "Electronic communication" means as that term is defined in 18 U.S.C. § 2510(12).

8 (3) "Electronic communication service" means as that term is defined in 18 U.S.C. §
9 2510(15).

10 (4) "Government entity" means as that term is defined in 18 U.S.C. § 2711(4).

11 (5) "Remote computing service" means as that term is defined in 18 U.S.C. § 2711(2).

12 (6) "Wire communication" means as that term is defined in 18 U.S.C. § 2510(1).

13 ~~(a)~~(b) Based on probable cause, a warrant may be issued to ~~corporations~~ a provider of an
14 electronic communication service or remote computing service located outside the state of Rhode
15 Island that provide electronic communication services to the general public in connection with
16 any communications sent to or received by customers or recipients located in Rhode Island. The
17 warrant may require the provision of customer identity, data stored by or on behalf of the
18 customer, the customer's usage of those services, the recipient or destination of communications
19 sent to or from those customers, or the content of those communications.

1 (c) Except as provided in subsection (d) of this section, within a reasonable time, but not
2 later than twenty (20) days after service of a warrant by a governmental entity for the disclosure
3 of the content of an electronic communication of a subscriber or customer from a provider of an
4 electronic communication service or remote computing service, the government entity shall serve
5 upon the subscriber or customer in a manner specified by the court issuing the warrant:

6 (1) A true copy of the warrant;

7 (2) The date the warrant was served;

8 (3) A notice that describes with specificity the nature of the inquiry; and

9 (4) A description of all information and content received by the government entity as a
10 result of the warrant.

11 (d) A government entity seeking a warrant under this section may include in the
12 application for the warrant a request for an order to include:

13 (1) That the government entity not be required to give notification pursuant to the
14 provisions of subsection (c) of this section for such reasonable periods of time that the court finds
15 there is reason to believe that notification may have serious adverse consequences to include, but
16 not limited to:

17 (i) Endangering the life or physical safety of an individual;

18 (ii) Flight from prosecution;

19 (iii) Obstruction of justice;

20 (iv) Destruction of or tampering with evidence;

21 (v) Intimidation of potential witnesses; or

22 (vi) Otherwise seriously jeopardizing an investigation or the administration of justice.

23 In no instance shall the court extend the notice period beyond one hundred eighty (180)
24 days from the service of the warrant.

25 (2) Directing the provider of an electronic communication service or remote computing
26 service to not notify any person, except legal counsel for advice or representation, of the warrant
27 for the period of time that the court finds there is reason to believe that notification may have
28 serious adverse consequences, but not to exceed one hundred eighty (180) days from service of
29 the warrant.

30 (e) Providers of electronic communication services and remote computing services
31 subject to legal process under this section shall have standing to challenge a warrant or other legal
32 process that is inconsistent with this section or other applicable state or federal law, or on the
33 grounds that the process is unduly burdensome.

34 (f) An electronic communication service or remote computing service, its officers,

1 employees, and agents are immune from suit in any civil action for providing information or
2 assistance in accordance with the terms of a warrant issued under this section, or for objecting in
3 good faith to a warrant.

4 (g) Nothing in this section shall be construed to prohibit a provider from disclosing the
5 contents of an electronic or wire communication to a government entity pursuant to 18 U.S.C. §
6 2702(b).

7 ~~(b)~~(h) Any warrant issued under this section shall be honored within the state of Rhode
8 Island and also in any foreign jurisdiction which has any law in place providing for the honoring
9 of such warrants.

10 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL PROCEDURE - SEARCH WARRANTS

- 1 This act would provide for the issuance of search warrants to providers of electronic
- 2 communication service and remote computing services based on probable cause. This act would
- 3 further provide for notice provisions for the customer that is the target of the warrant.
- 4 This act would take effect upon passage.

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