

ASSEMBLY, No. 3443

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Requires law enforcement agencies to obtain search warrant prior to accessing telecommunications subscriber's personal information.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning access to telecommunication information and
2 amending P.L.1993, c.29.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. Section 23 of P.L.1993, c.29 (C.2A:156A-29) is amended to
8 read as follows:

9 23. Requirements for access.

10 a. A law enforcement agency, but no other governmental
11 entity, may require the disclosure by a provider of electronic
12 communication service or remote computing service of the contents
13 of an electronic communication without notice to the subscriber or
14 the customer if the law enforcement agency obtains a warrant.

15 b. Except as provided in subsection c. of this section, a
16 provider of electronic communication service or remote computing
17 service may disclose a record or other information pertaining to a
18 subscriber or customer of the service to any person other than a
19 governmental entity. This subsection shall not apply to the contents
20 covered by subsection a. of this section.

21 c. A provider of electronic communication service or remote
22 computing service or a communication common carrier shall
23 disclose a record, the location information for a subscriber's or
24 customer's mobile or wireless communications device, or other
25 information pertaining to a subscriber or customer of the service,
26 other than contents covered by subsections a. and f. of this section,
27 to a law enforcement agency under the following circumstances:

28 (1) the law enforcement agency has obtained a warrant;

29 (2) the law enforcement agency has obtained the consent of the
30 subscriber or customer to the disclosure;

31 (3) the law enforcement agency has obtained a court order for
32 such disclosure under subsection e. of this section; or

33 (4) with respect to only the location information for a
34 subscriber's or customer's mobile or wireless communications
35 device and not to a record or other subscriber or customer
36 information, the law enforcement agency believes in good faith that
37 an emergency involving danger of death or serious bodily injury to
38 the subscriber or customer requires disclosure without delay of
39 information relating to the emergency.

40 A law enforcement agency receiving records or information
41 pursuant to this subsection is not required to provide notice to the
42 customer or subscriber.

43 d. Notwithstanding any other provision of law to the contrary,
44 no service provider, its officers, employees, agents or other
45 specified persons shall be liable in any civil action for damages as a

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 result of providing information, facilities or assistance in
2 accordance with the terms of a court order or warrant under this
3 section.

4 e. A court order for disclosure under subsection b. or c. may be
5 issued by a judge of competent jurisdiction and shall issue only if
6 the law enforcement agency offers specific and articulable facts
7 showing that there are reasonable grounds to believe that the record
8 or other information pertaining to a subscriber or customer of an
9 electronic communication service or remote computing service or
10 communication common carrier is relevant and material to an
11 ongoing criminal investigation. A judge who has issued an order
12 pursuant to this section, on a motion made promptly by the service
13 provider, may quash or modify such order, if the information or
14 records requested are unusually voluminous in nature or compliance
15 with such order otherwise would cause an undue burden on such
16 provider.

17 f. A provider of electronic communication service or remote
18 computing service shall disclose to a law enforcement agency or to
19 the State Commission of Investigation the:

20 (1) name;

21 (2) address;

22 (3) telephone or instrument number or other subscriber number
23 or identity, including any temporarily assigned network address;

24 (4) local and long distance telephone connection records or
25 records of session times and durations;

26 (5) length of service, including start date, and types of services
27 utilized; and

28 (6) means and source of payment for such service, including any
29 credit card or bank account number,

30 of a subscriber to or customer of such service when the law
31 enforcement agency obtains a **【grand jury or trial subpoena】** search
32 warrant or when the State Commission of Investigation issues a
33 subpoena.

34 g. Upon the request of a law enforcement agency, a provider of
35 wire or electronic communication service or a remote computing
36 service shall take all necessary steps to preserve, for a period of 90
37 days, records and other evidence in its possession pending the
38 issuance of a **【court order or other legal process】** search warrant.
39 The preservation period shall be extended for an additional 90 days
40 upon the request of the law enforcement agency.

41 (cf: P.L.2009, c.184, s.2)

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43 2. This act shall take effect immediately.

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STATEMENT

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48 This bill revises the "New Jersey Wiretapping and Electronic

1 Surveillance Control Act" concerning the disclosure of information by
2 telecommunication providers to law enforcement agencies.
3 Specifically, the bill requires law enforcement agencies to obtain a
4 search warrant prior to gaining access to a telecommunication
5 subscriber's personal information. The bill applies to all cable
6 television service, telephone service using any telephony other than
7 wireless telephone service, or Internet access service that provides
8 these services individually or a combination thereof, via a contract or
9 service agreement with a subscriber.

10 Under current law, telecommunication service providers are
11 required to disclose to law enforcement agencies which have
12 obtained a grand jury or trial subpoena a subscriber's name,
13 address, telephone or other subscriber number or identity, as well as
14 the length of and type of service utilized by that subscriber. In
15 addition, these providers are required to disclose to law enforcement
16 agencies the subscriber's local and long distance telephone connection
17 records or records of session times and durations and the subscriber's
18 means and source of payment for the service, including any credit card
19 or bank account numbers.

20 This bill affords telecommunication subscribers greater privacy
21 protections by requiring law enforcement agencies to obtain a search
22 warrant, rather than a grand jury or trial subpoena, prior to accessing
23 this personal information.