

Be it enacted by the Legislature of the state of (STATE):

Section 1. Section (NUMBER) is enacted to read:

(NUMBER) Definitions.

As used in this chapter:

(1) "Electronic communication service" means a service that provides to users of the service the ability to send or receive wire or electronic communications.

(2) "Electronic device" means a device that enables access to or use of an electronic communication service or remote computing service.

(3) "Government entity" means the state, a county, a municipality, a higher education institution, a local district, a special service district, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency.

(4) "Remote computing service" means the provision of computer storage or processing services by means of an electronic communications system.

(5) "Stored data" means – means data or records that are in stored on an electronic device that contains:

(a) information revealing the identity of users of the applicable service, device, or program; or

(b) information about a user's use of the applicable service, device, or program; or

(c) information that identifies the recipient or destination of a wire communication or electronic communication sent to or by the user; or

(d) the content of a wire communication or electronic communication sent to or by the user; or

(e) any data, documents, files, or communications stored by or on behalf of the user with the applicable service provider or on the user's electronic device.

(6) "Transmitted data" means data or records that are in the possession, care, custody, or control of a provider of an electronic communications service, or a remote computing service, that contains:

(a) information revealing the identity of users of the applicable service, device, or program; or

- (b) information about a user's use of the applicable service, device, or program; or
- (c) information that identifies the recipient or destination of a wire communication or electronic communication sent to or by the user; or
- (d) the content of a wire communication or electronic communication sent to or by the user; or
- (e) any data, documents, files, or communications stored by or on behalf of the user with the applicable service provider or on the user's electronic device.

Section 2. Section (NUMBER) is enacted to read:

(NUMBER) Electronic data and metadata privacy -- Warrant required for disclosure.

- (1) (a) Except as provided in Subsection (2), a government entity may not obtain the stored data, or transmitted data of an electronic device without a search warrant issued by a court upon probable cause.
 - (b) A government entity may not use, copy, or disclose, for any purpose, the stored data, or transmitted data of an electronic device that is not the subject of the warrant that is collected as part of an effort to obtain the stored data, or transmitted data of the electronic device that is the subject of the warrant in Subsection (1)(a).
 - (c) The data described in Subsection (1)(b) shall be destroyed in an unrecoverable manner by the government entity no later than 24 hours after the data is collected.
- (2) A government entity may obtain the stored data, or transmitted data of an electronic device without a search warrant:
 - (a) with the informed, affirmative consent of the owner or user of the electronic device; or
 - (b) in accordance with judicially recognized exceptions to warrant requirements; or
 - (c) if the owner has voluntarily and publicly disclosed stored data or transmitted data.

Section 3. Section (NUMBER) is enacted to read:

(NUMBER) Notification required – Delayed notification.

- (1) Notice must be given to the user whose stored data, transmitted data, or electronic device was searched or obtained by a government entity.

(2) Unless delayed notice is ordered pursuant to subsection (3), the government entity shall provide notice to the user whose electronic device was searched or whose stored data or transmitted data was obtained by a government entity within three days of obtaining the stored data or transmitted data or conducting the search. The notice must be made by service or delivered by registered or first-class mail, email, or any other means reasonably calculated to be effective as specified by the court issuing the warrant. The notice must contain the following information:

- (a) the nature of the law enforcement inquiry, with reasonable specificity;
- (b) the stored data or transmitted data of the user that was supplied to or requested by the governmental entity and the date on which it was provided or requested;
- (c) if stored data or transmitted data was obtained from a provider of electronic communication service or other third party, the identity of the provider of electronic communication service or the third party from whom the information was obtained; and
- (d) whether the notification was delayed pursuant to subsection (3) and, if so, the court that granted the delay and the reasons for granting the delay.

(3) A government entity acting pursuant to Section (NUMBER) may include in the application for a warrant a request for an order to delay the notification required pursuant to this section for a period not to exceed ninety days. The court shall issue the order if the court determines that there is reason to believe that notification may have an adverse result. Upon expiration of the period of delay granted pursuant to this subsection and any extension granted pursuant to subsection (4), the government entity shall provide the user a copy of the warrant together with a notice pursuant to subsections (1) and (2).

(4) A government entity acting pursuant to Section (NUMBER) may include in its application for a warrant a request for an order directing a provider of electronic communication service to which a warrant is directed not to notify any other person of the existence of the warrant for a period of not more than ninety days. The court shall issue the order if the court determines that there is reason to believe that notification of the existence of the warrant may have an adverse result. Absent an order to delay notification or upon expiration of the period of delay, a provider of electronic communication service to which a warrant is directed may provide notice to any other person.