

HOUSE BILL No. 5636

May 10, 2016, Introduced by Rep. Lucido and referred to the Committee on Judiciary.

A bill to amend 1966 PA 189, entitled

"An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts,"

by amending section 1 (MCL 780.651), as amended by 2014 PA 383, and by adding section 1a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) When an affidavit is made on oath to a judge or
2 district court magistrate authorized to issue warrants in criminal
3 cases, and the affidavit establishes grounds for issuing a warrant
4 under this act, the judge or district court magistrate, if he or
5 she is satisfied that there is probable cause for the search, shall
6 issue a warrant to search the house, building, or other location or
7 place where the person, property, or thing to be searched for and

1 seized is situated.

2 (2) An affidavit for a search warrant may be made by any
3 electronic or electromagnetic means of communication, including by
4 facsimile or over a computer network, if both of the following
5 occur:

6 (a) The judge or district court magistrate orally administers
7 the oath or affirmation to an applicant for a search warrant who
8 submits an affidavit under this subsection.

9 (b) The affiant signs the affidavit. Proof that the affiant
10 has signed the affidavit may consist of an electronically or
11 electromagnetically transmitted facsimile of the signed affidavit
12 or an electronic signature on an affidavit transmitted over a
13 computer network.

14 (3) A judge or district court magistrate may issue a written
15 search warrant in person or by any electronic or electromagnetic
16 means of communication, including by facsimile or over a computer
17 network.

18 (4) A judge or district court magistrate may sign an
19 electronically issued search warrant when he or she is at any
20 location in this state.

21 (5) The peace officer or department receiving an
22 electronically or electromagnetically issued search warrant shall
23 receive proof that the issuing judge or district court magistrate
24 has signed the warrant before the warrant is executed. Proof that
25 the issuing judge or district court magistrate has signed the
26 warrant may consist of an electronically or electromagnetically
27 transmitted facsimile of the signed warrant or an electronic

1 signature on a warrant transmitted over a computer network.

2 (6) If an oath or affirmation is orally administered by
3 electronic or electromagnetic means of communication under this
4 section, the oath or affirmation is considered to be administered
5 before the judge or district court magistrate.

6 (7) If an affidavit for a search warrant is submitted by
7 electronic or electromagnetic means of communication, or a search
8 warrant is issued by electronic or electromagnetic means of
9 communication, the transmitted copies of the affidavit or search
10 warrant are duplicate originals of the affidavit or search warrant
11 and are not required to contain an impression made by an impression
12 seal.

13 (8) Except as provided in subsection (9), an affidavit for a
14 search warrant contained in any court file or court record
15 retention system is nonpublic information.

16 (9) On the fifty-sixth day following the issuance of a search
17 warrant, the search warrant affidavit contained in any court file
18 or court record retention system is public information unless,
19 before the fifty-sixth day after the search warrant is issued, a
20 peace officer or prosecuting attorney obtains a suppression order
21 from a judge or district court magistrate upon a showing under oath
22 that suppression of the affidavit is necessary to protect an
23 ongoing investigation or the privacy or safety of a victim or
24 witness. The suppression order may be obtained ex parte in the same
25 manner that the search warrant was issued. An initial suppression
26 order issued under this subsection expires on the fifty-sixth day
27 after the order is issued. A second or subsequent suppression order

1 may be obtained in the same manner as the initial suppression order
2 and shall expire on a date specified in the order. This subsection
3 and subsection (8) do not affect a person's right to obtain a copy
4 of a search warrant affidavit from the prosecuting attorney or law
5 enforcement agency under the freedom of information act, 1976 PA
6 442, MCL 15.231 to 15.246.

7 (10) THIS SECTION DOES NOT APPLY TO THE FOLLOWING, EXCEPT AS
8 PROVIDED IN SECTION 1A:

9 (A) COMPELLING THE PRODUCTION OF OR ACCESS TO ELECTRONIC
10 COMMUNICATION INFORMATION FROM A SERVICE PROVIDER.

11 (B) COMPELLING THE PRODUCTION OF OR ACCESS TO ELECTRONIC
12 DEVICE INFORMATION FROM ANY PERSON OR ENTITY OTHER THAN THE
13 AUTHORIZED POSSESSOR OF THE DEVICE.

14 (C) ACCESSING ELECTRONIC DEVICE INFORMATION BY MEANS OF
15 PHYSICAL INTERACTION OR ELECTRONIC COMMUNICATION WITH THE
16 ELECTRONIC DEVICE.

17 (D) THE PUBLIC RELEASE OF INFORMATION CONTAINED IN AN
18 AFFIDAVIT AND WARRANT ISSUED UNDER SECTION 1A.

19 SEC. 1A. (1) EXCEPT AS OTHERWISE PROVIDED UNDER THIS SECTION,
20 A GOVERNMENTAL ENTITY MAY COMPEL THE PRODUCTION OF OR ACCESS TO
21 ELECTRONIC COMMUNICATION INFORMATION FROM A SERVICE PROVIDER OR
22 COMPEL THE PRODUCTION OF OR ACCESS TO ELECTRONIC DEVICE INFORMATION
23 FROM A PERSON OR ENTITY OTHER THAN THE AUTHORIZED POSSESSOR OF THE
24 DEVICE ONLY AFTER FIRST OBTAINING A WARRANT UNDER THIS SECTION.

25 (2) A GOVERNMENTAL ENTITY MAY ACCESS ELECTRONIC DEVICE
26 INFORMATION BY MEANS OF PHYSICAL INTERACTION OR ELECTRONIC
27 COMMUNICATION WITH THE DEVICE ONLY AS FOLLOWS:

1 (A) WITH THE SPECIFIC CONSENT OF THE AUTHORIZED POSSESSOR OF
2 THE DEVICE.

3 (B) WITH THE SPECIFIC CONSENT OF THE OWNER OF THE DEVICE, ONLY
4 IF THE DEVICE HAS BEEN REPORTED AS LOST OR STOLEN.

5 (C) IF THE GOVERNMENTAL ENTITY, IN GOOD FAITH, REASONABLY
6 BELIEVES THAT AN EMERGENCY INVOLVING IMMINENT DANGER OF DEATH OR
7 SERIOUS PHYSICAL INJURY TO ANY PERSON REQUIRES ACCESS TO THE
8 ELECTRONIC DEVICE INFORMATION.

9 (D) IF THE GOVERNMENTAL ENTITY, IN GOOD FAITH, REASONABLY
10 BELIEVES THE DEVICE TO BE LOST, STOLEN, OR ABANDONED, PROVIDED THAT
11 THE ENTITY SHALL ONLY ACCESS ELECTRONIC DEVICE INFORMATION IN ORDER
12 TO ATTEMPT TO IDENTIFY, VERIFY, OR CONTACT THE OWNER OR AUTHORIZED
13 POSSESSOR OF THE DEVICE.

14 (E) EXCEPT WHERE PROHIBITED BY LAW, IF THE DEVICE IS SEIZED
15 FROM AN INMATE'S POSSESSION OR FOUND IN AN AREA OF A CORRECTIONAL
16 FACILITY UNDER THE JURISDICTION OF THE DEPARTMENT OF CORRECTIONS
17 WHERE INMATES HAVE ACCESS AND THE DEVICE IS NOT IN THE POSSESSION
18 OF AN INDIVIDUAL AND THE DEVICE IS NOT KNOWN OR BELIEVED TO BE THE
19 POSSESSION OF AN AUTHORIZED VISITOR. NOTHING IN THIS SUBDIVISION
20 SUPERSEDES OR OVERRIDES SECTION 2A OF 1981 PA 7, MCL 801.262A.

21 (3) A WARRANT FOR ELECTRONIC INFORMATION SHALL COMPLY WITH ALL
22 THE FOLLOWING REQUIREMENTS:

23 (A) IT DESCRIBES WITH PARTICULARITY THE INFORMATION TO BE
24 SEIZED BY SPECIFYING THE TIME PERIODS COVERED AND, AS APPROPRIATE
25 AND REASONABLE, THE TARGET INDIVIDUALS OR ACCOUNTS, THE
26 APPLICATIONS OR SERVICES COVERED, AND THE TYPES OF INFORMATION
27 SOUGHT.

1 (B) IT REQUIRES THAT ANY INFORMATION OBTAINED THROUGH THE
2 EXECUTION OF THE WARRANT THAT IS UNRELATED TO THE OBJECTIVE OF THE
3 WARRANT SHALL BE SEALED AND NOT SUBJECT TO FURTHER REVIEW, USE, OR
4 DISCLOSURE WITHOUT A COURT ORDER. A COURT SHALL ISSUE SUCH AN ORDER
5 UPON A FINDING THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT THE
6 INFORMATION IS RELEVANT TO THE COMMISSION OF A CRIME, OR REVIEW,
7 USE, OR DISCLOSURE IS REQUIRED BY STATE OR FEDERAL LAW.

8 (C) IT COMPLIES WITH THE LAWS OF THIS STATE AND OF THE UNITED
9 STATES, INCLUDING ANY PROVISIONS PROHIBITING, LIMITING, OR IMPOSING
10 ADDITIONAL REQUIREMENTS ON THE USE OF SEARCH WARRANTS. IF DIRECTED
11 TO A SERVICE PROVIDER, THE WARRANT SHALL BE ACCOMPANIED BY AN ORDER
12 REQUIRING THE SERVICE PROVIDER TO VERIFY THE AUTHENTICITY OF
13 ELECTRONIC INFORMATION THAT IT PRODUCES.

14 (4) WHEN ISSUING ANY WARRANT FOR ELECTRONIC INFORMATION, OR
15 UPON THE PETITION FROM THE TARGET OR RECIPIENT OF THE WARRANT OR
16 ORDER, A COURT MAY, AT ITS DISCRETION, REQUIRE THAT ANY INFORMATION
17 OBTAINED THROUGH THE EXECUTION OF THE WARRANT THAT IS UNRELATED TO
18 THE OBJECTIVE OF THE WARRANT BE DESTROYED AS SOON AS FEASIBLE AFTER
19 THE TERMINATION OF THE CURRENT INVESTIGATION AND ANY RELATED
20 INVESTIGATIONS OR PROCEEDINGS.

21 (5) A SERVICE PROVIDER MAY VOLUNTARILY DISCLOSE ELECTRONIC
22 COMMUNICATION INFORMATION OR SUBSCRIBER INFORMATION WHEN THAT
23 DISCLOSURE IS NOT OTHERWISE PROHIBITED BY LAW. IF INFORMATION IS
24 DISCLOSED UNDER THIS SUBSECTION, THE SERVICE PROVIDER SHALL NOTIFY
25 THE SUBSCRIBER TO WHOM THE INFORMATION PERTAINS NOT MORE THAN 30
26 DAYS AFTER THE DISCLOSURE. THE NOTICE SHALL INCLUDE A LIST OF THE
27 INFORMATION THAT WAS DISCLOSED.

1 (6) IF A GOVERNMENTAL ENTITY RECEIVES ELECTRONIC COMMUNICATION
2 INFORMATION VOLUNTARILY PROVIDED UNDER SUBSECTION (5), IT SHALL
3 DESTROY THAT INFORMATION WITHIN 90 DAYS UNLESS 1 OR MORE OF THE
4 FOLLOWING CIRCUMSTANCES APPLY:

5 (A) THE GOVERNMENTAL ENTITY HAS OR OBTAINS THE SPECIFIC
6 CONSENT OF THE SENDER OR RECIPIENT OF THE ELECTRONIC COMMUNICATIONS
7 ABOUT WHAT INFORMATION WAS DISCLOSED.

8 (B) THE GOVERNMENTAL ENTITY OBTAINS A COURT ORDER AUTHORIZING
9 THE RETENTION OF THE INFORMATION. A COURT SHALL ISSUE A RETENTION
10 ORDER UPON A FINDING THAT THE CONDITIONS JUSTIFYING THE INITIAL
11 VOLUNTARY DISCLOSURE PERSIST, IN WHICH CASE THE COURT SHALL
12 AUTHORIZE THE RETENTION OF THE INFORMATION ONLY FOR SO LONG AS
13 THOSE CONDITIONS PERSIST, OR THERE IS PROBABLE CAUSE TO BELIEVE
14 THAT THE INFORMATION CONSTITUTES EVIDENCE THAT A CRIME HAS BEEN
15 COMMITTED.

16 (C) THE GOVERNMENTAL ENTITY REASONABLY BELIEVES THAT THE
17 INFORMATION RELATES TO CHILD PORNOGRAPHY.

18 (7) IF A GOVERNMENTAL ENTITY OBTAINS ELECTRONIC INFORMATION IN
19 AN EMERGENCY THAT INVOLVES IMMINENT DANGER OF DEATH OR SERIOUS
20 PHYSICAL INJURY TO A PERSON AND THAT REQUIRES ACCESS TO THE
21 ELECTRONIC INFORMATION WITHOUT DELAY, THE ENTITY SHALL, WITHIN 7
22 DAYS AFTER OBTAINING THE ELECTRONIC INFORMATION, FILE WITH THE
23 APPROPRIATE COURT AN APPLICATION FOR A WARRANT AUTHORIZING THE
24 OBTAINING OF THE ELECTRONIC INFORMATION OR A MOTION SEEKING
25 APPROVAL OF THE EMERGENCY DISCLOSURES THAT SETS FORTH THE FACTS
26 GIVING RISE TO THE EMERGENCY AND, IF APPLICABLE, A REQUEST
27 SUPPORTED BY A SWORN AFFIDAVIT FOR AN ORDER DELAYING NOTIFICATION

1 UNDER SUBSECTION (10). THE COURT SHALL PROMPTLY RULE ON THE
2 APPLICATION OR MOTION AND SHALL ORDER THE IMMEDIATE DESTRUCTION OF
3 ALL INFORMATION OBTAINED, AND IMMEDIATE NOTIFICATION UNDER
4 SUBSECTION (9) IF NOTICE HAS NOT ALREADY BEEN GIVEN, UPON A FINDING
5 THAT THE FACTS DID NOT GIVE RISE TO AN EMERGENCY OR UPON REJECTING
6 THE WARRANT OR ORDER APPLICATION ON ANY OTHER GROUND.

7 (8) THIS SECTION DOES NOT LIMIT THE AUTHORITY OF A
8 GOVERNMENTAL ENTITY TO USE AN ADMINISTRATIVE, GRAND JURY, TRIAL, OR
9 CIVIL DISCOVERY SUBPOENA TO DO 1 OR MORE OF THE FOLLOWING:

10 (A) REQUIRE AN ORIGINATOR, ADDRESSEE, OR INTENDED RECIPIENT OF
11 AN ELECTRONIC COMMUNICATION TO DISCLOSE ANY ELECTRONIC
12 COMMUNICATION INFORMATION ASSOCIATED WITH THAT COMMUNICATION.

13 (B) REQUIRE AN ENTITY THAT PROVIDES ELECTRONIC COMMUNICATION
14 SERVICES TO ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS FOR THE
15 PURPOSE OF CARRYING OUT THEIR DUTIES, TO DISCLOSE ELECTRONIC
16 COMMUNICATION INFORMATION ASSOCIATED WITH AN ELECTRONIC
17 COMMUNICATION TO OR FROM AN OFFICER, DIRECTOR, EMPLOYEE, OR AGENT
18 OF THE ENTITY.

19 (C) REQUIRE A SERVICE PROVIDER TO PROVIDE SUBSCRIBER
20 INFORMATION.

21 (9) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A
22 GOVERNMENTAL ENTITY THAT EXECUTES A WARRANT, OR OBTAINS ELECTRONIC
23 INFORMATION IN AN EMERGENCY UNDER SUBSECTION (7), SHALL SERVE UPON,
24 OR DELIVER TO BY REGISTERED OR FIRST-CLASS MAIL, ELECTRONIC MAIL,
25 OR OTHER MEANS REASONABLY CALCULATED TO BE EFFECTIVE, THE
26 IDENTIFIED TARGETS OF THE WARRANT OR EMERGENCY REQUEST, A NOTICE
27 THAT INFORMS THE RECIPIENT THAT INFORMATION ABOUT THE RECIPIENT HAS

1 BEEN COMPELLED OR REQUESTED AND STATES WITH REASONABLE SPECIFICITY
2 THE NATURE OF THE GOVERNMENT INVESTIGATION UNDER WHICH THE
3 INFORMATION IS SOUGHT. THE NOTICE SHALL INCLUDE A COPY OF THE
4 WARRANT OR A WRITTEN STATEMENT SETTING FORTH FACTS GIVING RISE TO
5 THE EMERGENCY. THE NOTICE SHALL BE PROVIDED CONTEMPORANEOUSLY WITH
6 THE EXECUTION OF A WARRANT OR, IN THE CASE OF AN EMERGENCY, WITHIN
7 7 DAYS AFTER OBTAINING THE ELECTRONIC INFORMATION.

8 (10) WHEN A WARRANT IS SOUGHT OR ELECTRONIC INFORMATION IS
9 OBTAINED IN AN EMERGENCY UNDER SUBSECTION (7), THE GOVERNMENTAL
10 ENTITY MAY SUBMIT A REQUEST SUPPORTED BY A SWORN AFFIDAVIT FOR AN
11 ORDER DELAYING NOTIFICATION AND PROHIBITING ANY PARTY PROVIDING
12 INFORMATION FROM NOTIFYING ANOTHER PARTY THAT INFORMATION HAS BEEN
13 SOUGHT. THE COURT SHALL ISSUE THE ORDER IF THE COURT DETERMINES
14 THAT THERE IS REASON TO BELIEVE THAT NOTIFICATION MAY HAVE AN
15 ADVERSE RESULT, BUT ONLY FOR THE PERIOD OF TIME THAT THE COURT
16 FINDS THAT THERE IS REASON TO BELIEVE THAT THE NOTIFICATION MAY
17 HAVE THAT ADVERSE RESULT, AND NOT TO EXCEED 90 DAYS. THE COURT MAY
18 GRANT EXTENSIONS OF THE DELAY OF UP TO 90 DAYS EACH ON THE SAME
19 GROUNDS AS PROVIDED IN THIS SUBSECTION. UPON EXPIRATION OF THE
20 PERIOD OF DELAY OF THE NOTIFICATION, THE GOVERNMENTAL ENTITY SHALL
21 SERVE UPON, OR DELIVER TO BY REGISTERED OR FIRST-CLASS MAIL,
22 ELECTRONIC MAIL, OR OTHER MEANS REASONABLY CALCULATED TO BE
23 EFFECTIVE AS SPECIFIED BY THE COURT ISSUING THE ORDER AUTHORIZING
24 DELAYED NOTIFICATION, THE IDENTIFIED TARGETS OF THE WARRANT, A
25 DOCUMENT THAT INCLUDES THE INFORMATION DESCRIBED IN SUBSECTION (9),
26 A COPY OF ALL ELECTRONIC INFORMATION OBTAINED OR A SUMMARY OF THAT
27 INFORMATION, INCLUDING, AT A MINIMUM, THE NUMBER AND TYPES OF

1 RECORDS DISCLOSED, THE DATE AND TIME WHEN THE EARLIEST AND LATEST
2 RECORDS WERE CREATED, AND A STATEMENT OF THE GROUNDS FOR THE
3 COURT'S DETERMINATION TO GRANT A DELAY IN NOTIFYING THE INDIVIDUAL.

4 (11) IF THERE IS NO IDENTIFIED TARGET OF A WARRANT OR
5 EMERGENCY REQUEST AT THE TIME OF ITS ISSUANCE, THE GOVERNMENTAL
6 ENTITY SHALL SUBMIT TO THE ATTORNEY GENERAL WITHIN 7 DAYS OF THE
7 EXECUTION OF THE WARRANT OR ISSUANCE OF THE REQUEST ALL OF THE
8 INFORMATION REQUIRED IN SUBSECTION (9). IF AN ORDER DELAYING NOTICE
9 IS OBTAINED UNDER SUBSECTION (10), THE GOVERNMENTAL ENTITY SHALL
10 SUBMIT TO THE ATTORNEY GENERAL UPON THE EXPIRATION OF THE PERIOD OF
11 DELAY OF THE NOTIFICATION ALL OF THE INFORMATION REQUIRED IN
12 SUBSECTION (10). THE ATTORNEY GENERAL SHALL PUBLISH ALL THOSE
13 REPORTS ON ITS INTERNET WEBSITE NOT MORE THAN 90 DAYS AFTER
14 RECEIPT. THE ATTORNEY GENERAL MAY REDACT NAMES OR OTHER PERSONAL
15 IDENTIFYING INFORMATION FROM THE REPORTS.

16 (12) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, NOTHING IN
17 THIS ACT PROHIBITS OR LIMITS A SERVICE PROVIDER OR ANY OTHER PARTY
18 FROM DISCLOSING INFORMATION ABOUT A REQUEST OR DEMAND FOR
19 ELECTRONIC INFORMATION.

20 (13) A PERSON IN A TRIAL, HEARING, OR PROCEEDING MAY MOVE TO
21 SUPPRESS ANY ELECTRONIC INFORMATION OBTAINED OR RETAINED IN
22 VIOLATION OF THE FOURTH AMENDMENT TO THE UNITED STATES CONSTITUTION
23 OR OF THIS SECTION.

24 (14) THE ATTORNEY GENERAL MAY COMMENCE A CIVIL ACTION TO
25 COMPEL ANY GOVERNMENT ENTITY TO COMPLY WITH THE PROVISIONS OF THIS
26 SECTION.

27 (15) AN INDIVIDUAL WHOSE INFORMATION IS TARGETED BY A WARRANT,

1 ORDER, OR OTHER LEGAL PROCESS THAT IS INCONSISTENT WITH THIS
2 SECTION, THE STATE CONSTITUTION OF 1963, OR THE CONSTITUTION OF THE
3 UNITED STATES, A SERVICE PROVIDER, OR ANY OTHER RECIPIENT OF THE
4 WARRANT, ORDER, OR OTHER LEGAL PROCESS MAY PETITION THE ISSUING
5 COURT TO VOID OR MODIFY THE WARRANT, ORDER, OR PROCESS, OR TO ORDER
6 THE DESTRUCTION OF ANY INFORMATION OBTAINED IN VIOLATION OF THIS
7 SECTION, THE STATE CONSTITUTION OF 1963, OR THE CONSTITUTION OF THE
8 UNITED STATES.

9 (16) AS USED IN THIS SECTION:

10 (A) "ADVERSE RESULT" MEANS ANY OF THE FOLLOWING:

11 (i) DANGER TO THE LIFE OR PHYSICAL SAFETY OF AN INDIVIDUAL.

12 (ii) FLIGHT FROM PROSECUTION.

13 (iii) DESTRUCTION OF OR TAMPERING WITH EVIDENCE.

14 (iv) INTIMIDATION OF POTENTIAL WITNESSES.

15 (v) SERIOUS JEOPARDY TO AN INVESTIGATION OR UNDUE DELAY OF A
16 TRIAL.

17 (B) "AUTHORIZED POSSESSOR" MEANS THE POSSESSOR OF AN
18 ELECTRONIC DEVICE IF THAT PERSON IS THE OWNER OF THE DEVICE OR HAS
19 BEEN AUTHORIZED TO POSSESS THE DEVICE BY THE OWNER OF THE DEVICE.

20 (C) "ELECTRONIC COMMUNICATION" MEANS THE TRANSFER OF SIGNS,
21 SIGNALS, WRITINGS, IMAGES, SOUNDS, DATA, OR INTELLIGENCE OF ANY
22 NATURE IN WHOLE OR IN PART BY A WIRE, RADIO, ELECTROMAGNETIC,
23 PHOTOELECTRIC, OR PHOTO-OPTICAL SYSTEM.

24 (D) "ELECTRONIC COMMUNICATION INFORMATION" MEANS ANY
25 INFORMATION ABOUT AN ELECTRONIC COMMUNICATION OR THE USE OF AN
26 ELECTRONIC COMMUNICATION SERVICE, INCLUDING, BUT NOT LIMITED TO,
27 THE CONTENTS, SENDER, RECIPIENTS, FORMAT, OR LOCATION OF THE SENDER

1 OR RECIPIENTS AT ANY POINT DURING THE COMMUNICATION, THE TIME OR
2 DATE THE COMMUNICATION WAS CREATED, SENT, OR RECEIVED, OR ANY
3 INFORMATION PERTAINING TO ANY INDIVIDUAL OR DEVICE PARTICIPATING IN
4 THE COMMUNICATION, INCLUDING, BUT NOT LIMITED TO, AN IP ADDRESS.
5 ELECTRONIC COMMUNICATION INFORMATION DOES NOT INCLUDE SUBSCRIBER
6 INFORMATION AS DEFINED IN THIS SECTION.

7 (E) "ELECTRONIC COMMUNICATION SERVICE" MEANS A SERVICE THAT
8 PROVIDES TO ITS SUBSCRIBERS OR USERS THE ABILITY TO SEND OR RECEIVE
9 ELECTRONIC COMMUNICATIONS, INCLUDING ANY SERVICE THAT ACTS AS AN
10 INTERMEDIARY IN THE TRANSMISSION OF ELECTRONIC COMMUNICATIONS, OR
11 STORES ELECTRONIC COMMUNICATION INFORMATION.

12 (F) "ELECTRONIC DEVICE" MEANS A DEVICE THAT STORES, GENERATES,
13 OR TRANSMITS INFORMATION IN ELECTRONIC FORM.

14 (G) "ELECTRONIC DEVICE INFORMATION" MEANS ANY INFORMATION
15 STORED ON OR GENERATED THROUGH THE OPERATION OF AN ELECTRONIC
16 DEVICE, INCLUDING THE CURRENT AND PRIOR LOCATIONS OF THE DEVICE.

17 (H) "ELECTRONIC INFORMATION" MEANS ELECTRONIC COMMUNICATION
18 INFORMATION OR ELECTRONIC DEVICE INFORMATION.

19 (I) "GOVERNMENTAL ENTITY" MEANS A DEPARTMENT OR AGENCY OF THIS
20 STATE OR A POLITICAL SUBDIVISION OF THIS STATE, OR AN INDIVIDUAL
21 ACTING FOR OR ON BEHALF OF THIS STATE OR A POLITICAL SUBDIVISION OF
22 THIS STATE.

23 (J) "SERVICE PROVIDER" MEANS A PERSON OR ENTITY OFFERING AN
24 ELECTRONIC COMMUNICATION SERVICE.

25 (K) "SPECIFIC CONSENT" MEANS CONSENT PROVIDED DIRECTLY TO THE
26 GOVERNMENT ENTITY SEEKING INFORMATION, INCLUDING, BUT NOT LIMITED
27 TO, WHEN THE GOVERNMENTAL ENTITY IS THE ADDRESSEE OR INTENDED

1 RECIPIENT OR A MEMBER OF THE INTENDED AUDIENCE OF AN ELECTRONIC
2 COMMUNICATION. SPECIFIC CONSENT DOES NOT REQUIRE THAT THE
3 ORIGINATOR OF THE COMMUNICATION HAVE ACTUAL KNOWLEDGE THAT AN
4 ADDRESSEE, INTENDED RECIPIENT, OR MEMBER OF THE SPECIFIC AUDIENCE
5 IS A GOVERNMENTAL ENTITY.

6 (I) "SUBSCRIBER INFORMATION" MEANS THE NAME, STREET ADDRESS,
7 TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, OR SIMILAR CONTACT
8 INFORMATION PROVIDED BY THE SUBSCRIBER TO THE PROVIDER TO ESTABLISH
9 OR MAINTAIN AN ACCOUNT OR COMMUNICATION CHANNEL, A SUBSCRIBER OR
10 ACCOUNT NUMBER OR IDENTIFIER, THE LENGTH OF SERVICE, AND THE TYPES
11 OF SERVICES USED BY A USER OF OR SUBSCRIBER TO A SERVICE PROVIDER.

12 Enacting section 1. This amendatory act takes effect 90 days
13 after the date it is enacted into law.