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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- INTERNET SERVICE
PROVIDERS -- DUTY TO DISCLOSE INFORMATION

Introduced By: Representatives Martin, DaSilva, Kilmartin, Carnevale, and Shallcross Smith

Date Introduced: May 21, 2009

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 39-2 of the General Laws entitled "Duties of Utilities and Carriers"
2 is hereby amended by adding thereto the following section:

3 **39-2-20.1. Internet service providers -- Duty to disclose certain information. – (a) As**
4 **used in this chapter:**

5 (1) "Internet service provider" means an entity offering the transmission, routing or
6 providing of connections of digital online communications, between or among points specified by
7 a user, of material of the user's choosing, without modification to the content of the material as
8 sent or received and includes a provider of online services or network access, including entities
9 that provide an electronic communication service or remote computing service, but does not mean
10 the offering on a common carrier basis of telecommunication facilities or of telecommunications.

11 (2) "Electronic communication service" and "remote computing service" shall have the
12 same meaning as contained in the Electronic Communications Privacy Act, 18 U.S.C. section
13 2510 and 18 U.S.C. section 2701 through 2711, as may be amended.

14 (3) "Foreign entities" means any entity that makes a contract or engages in a term of
15 service agreement with a resident of the state of Rhode Island and a foreign entity.

16 (4) "Proper service" means the delivery of a search warrant or an administrative
17 subpoena by hand, by United States mail, by commercial delivery service, by facsimile, or by any
18 other manner to any officer of a corporation or its general manager in the state of Rhode Island to

1 any natural person designated by the entity as their agent for service of process, or if such
2 corporation has designated a corporate agent.

3 (5) "Service of process on a foreign entity" means that the service of a search warrant or
4 subpoena which is properly served on said foreign entity shall have the same legal force and
5 effect as if served personally within the state of Rhode Island.

6 (b) An Internet service provider, as defined herein, shall disclose to the duly authorized
7 law enforcement persons including the attorney general, or an assistant attorney general specially
8 designated by the attorney general; the superintendent of Rhode Island state police, or the
9 commander of the Rhode Island Internet crimes against children task force; or, the chief of police
10 of any Rhode Island city or town, upon proper service by one of these duly authorized law
11 enforcement persons, or one specific agent, together with certification from that duly authorized
12 law enforcement persons that the information is necessary for an officially documented criminal
13 investigation or prosecution of criminal complaint related to the exploitation of children, on-line
14 child enticement, including those involved in the storage or distribution of child pornography,
15 subscriber account information consisting of the name, address, IP address and telephone
16 numbers associated with the account.

17 (c) An administrative subpoena issued to an Internet service provider shall authorize the
18 release of non-content basic subscriber information identifying the name, address and telephone
19 number of said account along with the Internet protocol number. Any content-based information
20 shall be sought pursuant to a court order or authorized search warrant.

21 (d) Notwithstanding any provision of this chapter, or any other provision of the general or
22 public laws to the contrary, telephone records may not be released by an Internet service provider
23 pursuant to an administrative subpoena. The Rhode Island superior court shall have the authority
24 to enforce said administrative subpoenas upon application by the issuing law enforcement
25 authority.

26 (e) Any law enforcement agency that issues an administrative subpoena related to a
27 criminal investigation or prosecution of a criminal complaint related to the exploitation of
28 children, online child enticement or the storage or distribution of child pornography to Internet
29 service providers pursuant to this section shall provide an annual report to the attorney general
30 each year detailing the following:

31 (1) The number of administrative subpoenas issued in the previous year;

32 (2) The number of separate criminal investigations for which the administrative
33 subpoenas were issued and whether said administrative subpoenas resulted in an arrest,
34 indictment or criminal information;

1 (3) The number of investigations that remain part of a pending investigation;
2 (4) The number that resulted in the closing of a criminal investigation as unfounded; and
3 (5) The number of investigations that were not able to be investigated further due to an
4 inability to identify the subscriber.

5 (f) The attorney general's office shall compile and forward said reports to the general
6 assembly on an annual basis by March 31 of each year for the previous year. The reports shall be
7 a public record.

8 (g) No cause of action shall lie in any court against any Internet service provider, its
9 officers, employees, or agents for furnishing or disclosing information, in accordance with this
10 section.

11 (h) No law enforcement officer, or any party to these investigations under this section,
12 shall disclose any information obtained as a result of this section, except as it is essential to the
13 proper discharge of their duties.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would allow law enforcement and the attorney general administrative subpoena
2 power to obtain information relative to the distribution or storage of child pornography as well as
3 the exploitation of children or online child enticement from Internet service providers. It would
4 also place the duty to disclose certain information on the Internet service provider relative to the
5 name and address of an Internet service subscriber relative to the investigation of suspected
6 violations of said crimes.

7 This act would take effect upon passage.

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