

2016 -- S 2631

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS - DUTIES OF UTILITIES AND
CARRIERS

Introduced By: Senators Lombardi, Archambault, Conley, Algieri, and Nesselbush

Date Introduced: February 25, 2016

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-2-20.1 of the General Laws in Chapter 39-2 entitled "Duties of
2 Utilities and Carriers" is hereby amended to read as follows:

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" means any service which provides to its users
12 the ability to send or receive wire or electronic communications.

13 (3) "Remote computing service" means the provision to the public of computer storage
14 or processing services by means of an electronic communication system.

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

17 (5) "Proper service" means the delivery of a search warrant or an administrative
18 subpoena by hand, by United States mail, by commercial delivery service, by facsimile, or by any

1 other manner to any officer of a corporation or its general manager in the State of Rhode Island to
2 any natural person designated by the entity as their agent for service of process, or if such
3 corporation has designated a corporate agent.

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

7 (b) (1) An Internet service provider, as defined herein, shall disclose subscriber account
8 information consisting of the name, address, IP address and telephone numbers associated with
9 the account to the attorney general or to the superintendent of the Rhode Island state police upon
10 proper service, and with certification under oath by the attorney general or by the superintendent
11 of the Rhode Island state police, that the information is necessary for an officially documented
12 criminal investigation or prosecution of criminal complaint based on probable cause related to:
13 the exploitation for commercial or immoral purposes, pursuant to § 11-9-1; child nudity
14 prohibited in publications pursuant to § 11-9-1.1; child pornography prohibited pursuant to § 11-
15 9-1.3; employment of children for unlawful purposes pursuant to § 11-9-2; seizure and custody of
16 exploited child-proceedings as against neglected child pursuant to § 11-9-3; contributing to
17 delinquency pursuant to § 11-9-4; cruelty to or neglect of child pursuant to § 11-9-5; indecent
18 solicitation of a child pursuant to § 11-37-8.8; access to computer for fraudulent purposes
19 pursuant to § 11-52-2; intentional access, alteration, damage, or destruction pursuant to § 11-52-
20 3; cyberstalking prohibited pursuant to § 11-52-4.2; violation of restraining order pursuant to §
21 11-52-4.3; use of false information pursuant to § 11-52-7, ~~and/or~~ video voyeurism pursuant to §
22 11-64-2, online impersonation pursuant to §11-52-7.1, and/or electronically disseminating
23 indecent material to minors prohibited pursuant to §11-9-1.5.

24 (2) A duly authorized law enforcement person, as designated above, after issuing a
25 certification pursuant to this section, if an arrest, grand jury proceeding, or any criminal
26 prosecution does not result within sixty (60) days, shall apply to a judge for a search warrant as
27 soon as practicable, but not later than seventy-five (75) days after issuance of the certification. In
28 the event that such application is not approved, no information obtained or evidence derived from
29 said subpoena shall be received in evidence or otherwise disclosed in any trial, hearing, or other
30 proceeding in or before any court, grand jury, department, office, agency, regulatory body,
31 legislative committee or other governmental authority or committee, and no information
32 concerning any person acquired from such subpoena shall subsequently be used or disclosed in
33 any other manner by state or local officers or employees without the consent of such person.

34 (c) An administrative subpoena issued to an Internet service provider shall authorize the

1 release of non-content-based subscriber information identifying the name, address and telephone
2 number of said account along with the Internet protocol number.

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

8 (e) The attorney general and/or the superintendent of the Rhode Island state police who
9 issues an administrative subpoena to Internet service providers related to: the exploitation for
10 commercial or immoral purpose, pursuant to § 11-9-1; child nudity prohibited in publications
11 pursuant to § 11-9-1.1; child pornography prohibited pursuant to § 11-9-1.3; employment of
12 children for unlawful purposes pursuant to § 11-9-2; seizure and custody of exploited child-
13 proceedings as against neglected child pursuant to § 11-9-3; contributing to delinquency pursuant
14 to § 11-9-4; cruelty to or neglect of child pursuant to § 11-9-5; indecent solicitation of a child
15 pursuant to § 11-37-8.8; access to computer for fraudulent purposes pursuant to § 11-52-2;
16 intentional access, alteration, damage, or destruction pursuant to § 11-52-3; cyberstalking
17 prohibited pursuant to § 11-52-4.2; violation of restraining order pursuant to § 11-52-4.3; use of
18 false information pursuant to § 11-52-7; ~~and/or~~ video voyeurism pursuant to § 11-64-2; [online](#)
19 [impersonation pursuant to §11-52-7.1, and/or electronically disseminating indecent material to](#)
20 [minors prohibited pursuant to §11-9-1.5](#), shall provide an annual report to the general assembly
21 each year detailing the following:

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

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

26 (3) The number of investigations that remain part of a pending investigation;

27 (4) The number that resulted in the closing of a criminal investigation as unfounded; and

28 (5) The number of investigations that did not result in an arrest, grand jury proceeding,
29 or any criminal prosecution due to an inability to identify the subscriber.

30 (f) The attorney general's office and the Rhode Island state police shall compile and
31 forward said reports to the general assembly on an annual basis by March 31 of each year for the
32 previous year. The reports shall be a public record.

33 (g) No cause of action shall lie in any court against any Internet service provider, its
34 officers, employees, or agents for furnishing or disclosing information, in strict compliance with

1 this section.

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

5 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 add online impersonation and electronic dissemination of indecent
2 materials to minors to the group of offenses for which an internet service provider must provide
3 subscriber account information to the attorney general or to the state police upon proper service
4 and with certification that the information is necessary for an official criminal investigation or
5 prosecution.

6 This act would take effect upon passage.

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