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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

RELATING CRIMINAL PROCEDURE-SEARCH WARRANTS -- ELECTRONIC DATA
PRIVACY ACT

Introduced By: Representatives Filippi, Place, Roberts, Nardone, and Price

Date Introduced: March 22, 2019

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 12 of the General Laws entitled "CRIMINAL PROCEDURE" is
2 hereby amended by adding thereto the following chapter:

3 CHAPTER 5.3

4 ELECTRONIC DATA PRIVACY ACT

5 **12-5.3-1. Short title.**

6 This act shall be known and may be cited as the "Electronic Data Privacy Act."

7 **12-5.3-2. Definitions.**

8 (1) "Authorized user" means a person who has the permission of the owner to possess
9 and operate an electronic device.

10 (2) "Electronic communication service" means a service that:

11 (i) Provides to users the ability to send or receive electronic communications;

12 (ii) Provides to users computer storage or processing services; or

13 (iii) Acts as an intermediary in the transmission of electronic communications.

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

16 (4) "Government entity" means a state or local agency, including, but not limited to, a
17 law enforcement entity or any other investigative entity, agency, department, division, bureau,
18 board, or commission or an individual acting or purporting to act for or on behalf of a state or

1 local agency.

2 (5) "Owner" means a person who is the legal owner of an electronic device. If the
3 electronic device is the subject of an agreement for the conditional sale of the electronic device
4 with the right of purchase upon performance of the conditions stated in the agreement and with an
5 immediate right of possession vested in the person possessing the device, or in the event the
6 electronic device is subject to a lease, contract, or other legal arrangement vesting the right of
7 possession or control in the person possessing the electronic device, then the owner is the person
8 in whom the right of possession or control is vested.

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

11 (7) "Stored data" means data or records that are stored on an electronic device that
12 contains:

13 (i) Information revealing the identity of users of the applicable service, device, or
14 program;

15 (ii) Information about a user's use of the applicable service, device, or program;

16 (iii) Information that identifies the recipient or destination of a wire communication or
17 electronic communication sent to or by the user;

18 (iv) The content of a wire communication or electronic communication sent to or by the
19 user;

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

22 **12-5.3-3. Electronic data privacy - Warrant required - Exceptions.**

23 (a) Except as provided in subsection (b) of this section, a government entity may not
24 obtain the stored data of an electronic device without a search warrant issued by a court upon a
25 finding of probable cause.

26 (b) A government entity may obtain the stored data of an electronic device without a
27 search warrant:

28 (1) With the consent of the owner or authorized user of the electronic device;

29 (2) In accordance with judicially recognized exceptions to warrant requirements;

30 (3) If the owner has voluntarily and publicly disclosed the stored data;

31 (4) If the government entity, in good faith, believes that an emergency involving danger,
32 death, or serious physical injury to a person requires immediate disclosure of communications
33 relating to the emergency;

34 (5) In order to respond to the user's call for emergency services; or

1 (6) For any electronic devices found within the confines of an adult or youth correctional
2 facility.

3 (c) Nothing in this chapter may be construed to limit a government entity's ability to use,
4 maintain, or store information on its own electronic devices or to disseminate information stored
5 on its own electronic devices.

6 (d) This chapter shall not apply to a motor vehicle carrier safety or hazardous materials
7 programs implemented by the department of transportation for purposes of complying with
8 federal motor carrier safety regulations.

9 **12-5.3-4. Civil actions for violations.**

10 The attorney general may apply for an injunction or commence a civil action against any
11 government entity to compel compliance with the terms of this chapter.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING CRIMINAL PROCEDURE-SEARCH WARRANTS -- ELECTRONIC DATA
PRIVACY ACT

1 This act would establish the electronic data privacy act and would prohibit any
2 government entity from accessing any electronic device without a search warrant. Consent,
3 judicially recognized warrant exceptions, good faith and other exceptions would apply to the
4 warrant requirement.

5 This act would take effect upon passage.

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