

2012 -- S 3074

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- SEARCH WARRANTS

Introduced By: Senator Donna M. Nesselbush

Date Introduced: June 12, 2012

Referred To: Placed on Senate Calendar

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 12-5 of the General Laws entitled "Search Warrants" is hereby
2 amended by adding thereto the following section:

3 **12-5-11. Portable electronic devices. – (a) The general assembly finds and declares the**
4 **following:**

5 (1) The right to privacy is fundamental in a free and civilized society.

6 (2) The number of Rhode Island residents utilizing and carrying portable electronic
7 devices is growing at a rapidly increasing rate. Users of portable electronic devices have a
8 reasonable and justifiable expectation of privacy in the information these devices contain and
9 access through the Internet.

10 (3) Once in the exclusive control of the police, carrying portable electronic devices do not
11 ordinarily pose a threat to officer safety. Concerns about destruction of evidence on a carrying
12 portable electronic device can ordinarily be addressed through simple evidence preservation
13 methods and prompt application to a magistrate for a search warrant and, therefore, do not justify
14 a blanket exception to the warrant requirement. Moreover, good forensic evidence practice
15 supports the use of search warrants to obtain information contained in a carrying portable
16 electronic device seized incident to arrest.

17 (b) The information contained in a portable electronic device shall not be subject to
18 search by a law enforcement officer incident to a lawful custodial arrest except pursuant to a
19 warrant issued by a duly authorized magistrate using the procedures established by this chapter.

1 (c) As used in this section, “portable electronic device” means any portable device that is
2 capable of creating, receiving, accessing, or storing electronic data or communications.

3 (d) Except as provided in subsection (b), nothing in this section shall be deemed to
4 restrict or affect law enforcement reliance on established exceptions to the warrant requirement.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL PROCEDURE -- SEARCH WARRANTS

- 1 This act would require search warrants be issued, subject to established exceptions, prior
- 2 to obtaining information contained in portable electronic devices.
- 3 This act would take effect upon passage.

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