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P.L. 2005, CHAPTER 270, *approved January 5, 2006*
Assembly, No. 3786 (*First Reprint*)

1 **AN ACT** concerning information to be disclosed to law enforcement by
2 providers of electronic communication or remote computing
3 services and amending P.L.1993, c.29.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 23 of P.L.1993, c.29 (C.2A:156A-29) is amended to
9 read as follows:

10 23. Requirements for access.

11 a. A law enforcement agency, but no other governmental entity,
12 may require the disclosure by a provider of electronic communication
13 service or remote computing service of the contents of an electronic
14 communication without notice to the subscriber or the customer if the
15 law enforcement agency obtains a warrant.

16 b. Except as provided in subsection c. of this section, a provider of
17 electronic communication service or remote computing service may
18 disclose a record or other information pertaining to a subscriber or
19 customer of the service to any person other than a governmental
20 entity. This subsection shall not apply to the contents covered by
21 subsection a. of this section.

22 c. A provider of electronic communication service or remote
23 computing service shall disclose a record or other information
24 pertaining to a subscriber or customer of the service, other than
25 contents covered by subsections a. and f. of this section, to a law
26 enforcement agency under the following circumstances:

27 (1) the law enforcement agency has obtained a warrant;

28 (2) the law enforcement agency has obtained the consent of the
29 subscriber or customer to the disclosure; or

30 (3) the law enforcement agency has obtained a court order for such
31 disclosure under subsection e. of this section.

32 A law enforcement agency receiving records or information
33 pursuant to this subsection is not required to provide notice to the
34 customer or subscriber.

35 d. Notwithstanding any other provision of law to the contrary, no
36 service provider, its officers, employees, agents or other specified
37 persons shall be liable in any civil action for damages as a result of
38 providing information, facilities or assistance in accordance with the
39 terms of a court order or warrant under this section.

40 e. A court order for disclosure under subsection b. or c. may be

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted March 10, 2005.

1 issued by a judge of competent jurisdiction and shall issue only if the
2 law enforcement agency offers specific and articulable facts showing
3 that there are reasonable grounds to believe that the record or other
4 information pertaining to a subscriber or customer of an electronic
5 communication service or remote computing service is relevant and
6 material to an ongoing criminal investigation. A judge who has issued
7 an order pursuant to this section, on a motion made promptly by the
8 service provider, may quash or modify such order, if the information
9 or records requested are unusually voluminous in nature or compliance
10 with such order otherwise would cause an undue burden on such
11 provider.

12 f. A provider of electronic communication service or remote
13 computing service shall disclose to a law enforcement agency the:

14 (1) name[,] ;

15 (2) address[,] ;

16 (3) telephone or instrument number or other subscriber number or
17 identity, [and] including any temporarily assigned network address;

18 (4) local and long distance telephone connection records or records
19 of session times and durations;

20 (5) length of service [provided to a] , including start date, and
21 types of services utilized; and

22 (6) means and source of payment for such service, including any
23 credit card or bank account number,

24 of a subscriber to or customer of such service [and the types of
25 services the subscriber or customer utilized,] when the law
26 enforcement [entity] agency obtains a grand jury or trial subpoena.

27 g. Upon the request of a law enforcement agency, a provider of
28 wire or electronic communication service or a remote computing
29 service shall take all necessary steps to preserve, for a period of 90
30 days, records and other evidence in its possession pending the issuance
31 of a ¹[warrant] court order or other legal process¹. The preservation
32 period shall be extended for an additional 90 days upon the request of
33 the law enforcement agency.

34 (cf: P.L.1999, c.151, s.6)

35

36 2. This act shall take effect on the first day of the fourth month
37 after enactment.

38

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41

42 Expands information which provider of electronic communication or
43 remote computing services must disclose to authorized law
44 enforcement agency.

ASSEMBLY, No. 3786

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED FEBRUARY 14, 2005

Sponsored by:

Assemblyman PETER J. BARNES, JR.

District 18 (Middlesex)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

Assemblymen Rumpf and Bramnick

SYNOPSIS

Expands information which provider of electronic communication or remote computing services must disclose to authorized law enforcement agency.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/11/2005)

1 AN ACT concerning information to be disclosed to law enforcement by
2 providers of electronic communication or remote computing
3 services and amending P.L.1993, c.29.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. Section 23 of P.L.1993, c.29 (C.2A:156A-29) is amended to
9 read as follows:

10 23. Requirements for access.

11 a. A law enforcement agency, but no other governmental entity,
12 may require the disclosure by a provider of electronic communication
13 service or remote computing service of the contents of an electronic
14 communication without notice to the subscriber or the customer if the
15 law enforcement agency obtains a warrant.

16 b. Except as provided in subsection c. of this section, a provider
17 of electronic communication service or remote computing service may
18 disclose a record or other information pertaining to a subscriber or
19 customer of the service to any person other than a governmental
20 entity. This subsection shall not apply to the contents covered by
21 subsection a. of this section.

22 c. A provider of electronic communication service or remote
23 computing service shall disclose a record or other information
24 pertaining to a subscriber or customer of the service, other than
25 contents covered by subsections a. and f. of this section, to a law
26 enforcement agency under the following circumstances:

- 27 (1) the law enforcement agency has obtained a warrant;
28 (2) the law enforcement agency has obtained the consent of the
29 subscriber or customer to the disclosure; or
30 (3) the law enforcement agency has obtained a court order for such
31 disclosure under subsection e. of this section.

32 A law enforcement agency receiving records or information
33 pursuant to this subsection is not required to provide notice to the
34 customer or subscriber.

35 d. Notwithstanding any other provision of law to the contrary, no
36 service provider, its officers, employees, agents or other specified
37 persons shall be liable in any civil action for damages as a result of
38 providing information, facilities or assistance in accordance with the
39 terms of a court order or warrant under this section.

40 e. A court order for disclosure under subsection b. or c. may be
41 issued by a judge of competent jurisdiction and shall issue only if the
42 law enforcement agency offers specific and articulable facts showing
43 that there are reasonable grounds to believe that the record or other

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 information pertaining to a subscriber or customer of an electronic
2 communication service or remote computing service is relevant and
3 material to an ongoing criminal investigation. A judge who has issued
4 an order pursuant to this section, on a motion made promptly by the
5 service provider, may quash or modify such order, if the information
6 or records requested are unusually voluminous in nature or compliance
7 with such order otherwise would cause an undue burden on such
8 provider.

9 f. A provider of electronic communication service or remote
10 computing service shall disclose to a law enforcement agency the:

11 (1) name[,] ;

12 (2) address[,] ;

13 (3) telephone or instrument number or other subscriber number or
14 identity, [and] including any temporarily assigned network address;

15 (4) local and long distance telephone connection records or records
16 of session times and durations;

17 (5) length of service [provided to a] , including start date, and
18 types of services utilized; and

19 (6) means and source of payment for such service, including any
20 credit card or bank account number.

21 of a subscriber to or customer of such service [and the types of
22 services the subscriber or customer utilized,] when the law
23 enforcement [entity] agency obtains a grand jury or trial subpoena.

24 g. Upon the request of a law enforcement agency, a provider of
25 wire or electronic communication service or a remote computing
26 service shall take all necessary steps to preserve, for a period of 90
27 days, records and other evidence in its possession pending the issuance
28 of a warrant. The preservation period shall be extended for an
29 additional 90 days upon the request of the law enforcement agency.
30 (cf: P.L.1999, c.151, s.6)

31

32 2. This act shall take effect on the first day of the fourth month
33 after enactment.

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STATEMENT

37

38 This bill would expand the information which a provider of
39 electronic communication or remote computing services is required to
40 disclose to a law enforcement agency which has obtained a grand jury
41 or trial subpoena under the State's wiretapping law. These changes
42 make State law consistent with current federal regulations.

43 Under current law, providers of electronic communication or
44 remote computing services must disclose to law enforcement agencies
45 which have obtained a grand jury or trial subpoena the subscriber or
46 customer's name, address, telephone or other subscriber number or

1 identity, as well as the length of and type of service utilized by that
2 subscriber or customer.

3 The bill amends this law to also require these providers to disclose
4 to these law enforcement agencies the subscriber's or customer's local
5 and long distance telephone connection records or records of session
6 times and durations and the subscriber's or customer's means and
7 source of payment for the service, including any credit card or bank
8 account numbers. The bill also clarifies that the provider must
9 disclose, not only the subscriber's or customer's telephone number, but
10 any instrument number or temporarily assigned network address.
11 Also, the start date of the service must be disclosed.

12 According to the sponsor, access to the additional information
13 specified in the bill will greatly enhance the ability of law enforcement
14 to quickly and efficiently investigate computer-related crimes, such as
15 the use of the Internet by sex offenders to prey on and exploit innocent
16 children.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3786

STATE OF NEW JERSEY

DATED: DECEMBER 1, 2005

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably Assembly Bill No. 3786 (1R).

This bill expands the information which a provider of electronic communication or remote computing service, such as an Internet service provider (ISP), is required to disclose to a law enforcement agency which has obtained a grand jury or trial subpoena under the State's wiretapping law. These changes make State law consistent with current federal regulations.

Under current law, providers of electronic communication or remote computing services must disclose to law enforcement agencies which have obtained a grand jury or trial subpoena the subscriber or customer's name, address, telephone or other subscriber number or identity, as well as the length of and type of service utilized by that subscriber or customer.

The bill requires these providers to disclose to law enforcement agencies the subscriber's or customer's local and long distance telephone connection records or records of session times and durations and the subscriber's or customer's means and source of payment for the service, including any credit card or bank account numbers. The bill also clarifies that the provider must disclose not only the subscriber's or customer's telephone number, but any instrument number or temporarily assigned network address. Also, the start date of the service must be disclosed.

As reported by the committee, this bill is identical to Senate Bill No. 2630.

ASSEMBLY LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3786

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 10, 2005

The Assembly Law and Public Safety Committee reports favorably and with committee amendments Assembly Bill No. 3786.

As amended and reported by the committee, Assembly Bill No. 3786 expands the information which a provider of electronic communication or remote computing service, such as an Internet service provider (ISP), is required to disclose to a law enforcement agency which has obtained a grand jury or trial subpoena under the State's wiretapping law. These changes make State law consistent with current federal regulations.

Under current law, providers of electronic communication or remote computing services must disclose to law enforcement agencies which have obtained a grand jury or trial subpoena the subscriber or customer's name, address, telephone or other subscriber number or identity, as well as the length of and type of service utilized by that subscriber or customer.

The bill requires these providers to disclose to law enforcement agencies the subscriber's or customer's local and long distance telephone connection records or records of session times and durations and the subscriber's or customer's means and source of payment for the service, including any credit card or bank account numbers. The bill also clarifies that the provider must disclose, not only the subscriber's or customer's telephone number, but any instrument number or temporarily assigned network address. Also, the start date of the service must be disclosed.

COMMITTEE AMENDMENTS:

The committee amended the bill to establish that when providers of electronic communication or remote computing services are required to preserve records and other evidence for 90 days, that it be pending the issuance of a court order or other legal process, rather than a warrant.

SENATE, No. 2630

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED JUNE 16, 2005

Sponsored by:

Senator PAUL SARLO

District 36 (Bergen, Essex and Passaic)

Senator BARBARA BUONO

District 18 (Middlesex)

SYNOPSIS

Expands information which provider of electronic communication or remote computing services must disclose to authorized law enforcement agency.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/28/2005)

1 AN ACT concerning information to be disclosed to law enforcement by
2 providers of electronic communication or remote computing
3 services and amending P.L.1993, c.29.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. Section 23 of P.L.1993, c.29 (C.2A:156A-29) is amended to
9 read as follows:

10 23. Requirements for access.

11 a. A law enforcement agency, but no other governmental entity,
12 may require the disclosure by a provider of electronic communication
13 service or remote computing service of the contents of an electronic
14 communication without notice to the subscriber or the customer if the
15 law enforcement agency obtains a warrant.

16 b. Except as provided in subsection c. of this section, a provider of
17 electronic communication service or remote computing service may
18 disclose a record or other information pertaining to a subscriber or
19 customer of the service to any person other than a governmental
20 entity. This subsection shall not apply to the contents covered by
21 subsection a. of this section.

22 c. A provider of electronic communication service or remote
23 computing service shall disclose a record or other information
24 pertaining to a subscriber or customer of the service, other than
25 contents covered by subsections a. and f. of this section, to a law
26 enforcement agency under the following circumstances:

27 (1) the law enforcement agency has obtained a warrant;

28 (2) the law enforcement agency has obtained the consent of the
29 subscriber or customer to the disclosure; or

30 (3) the law enforcement agency has obtained a court order for such
31 disclosure under subsection e. of this section.

32 A law enforcement agency receiving records or information
33 pursuant to this subsection is not required to provide notice to the
34 customer or subscriber.

35 d. Notwithstanding any other provision of law to the contrary, no
36 service provider, its officers, employees, agents or other specified
37 persons shall be liable in any civil action for damages as a result of
38 providing information, facilities or assistance in accordance with the
39 terms of a court order or warrant under this section.

40 e. A court order for disclosure under subsection b. or c. may be
41 issued by a judge of competent jurisdiction and shall issue only if the
42 law enforcement agency offers specific and articulable facts showing
43 that there are reasonable grounds to believe that the record or other

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 information pertaining to a subscriber or customer of an electronic
2 communication service or remote computing service is relevant and
3 material to an ongoing criminal investigation. A judge who has issued
4 an order pursuant to this section, on a motion made promptly by the
5 service provider, may quash or modify such order, if the information
6 or records requested are unusually voluminous in nature or compliance
7 with such order otherwise would cause an undue burden on such
8 provider.

9 f. A provider of electronic communication service or remote
10 computing service shall disclose to a law enforcement agency or to the
11 State Commission of Investigation the;

12 (1) name[.];

13 (2) address[.];

14 (3) telephone or instrument number or other subscriber number or
15 identity, [and] including any temporary assigned network address;

16 (4) local and long distance telephone connection records or records
17 of session times and durations;

18 (5) length of service [provided to] , including start date, and types
19 of services utilized; and

20 (6) means and source of payment for such service, including any
21 credit card or bank account number.

22 of a subscriber to or customer of such service [and the types of
23 services the subscriber or customer utilized,] when the law
24 enforcement [entity] agency obtains a grand jury or trial subpoena or
25 when the State Commission of Investigation issues a subpoena.

26 g. Upon the request of a law enforcement agency, a provider of
27 wire or electronic communication service or a remote computing
28 service shall take all necessary steps to preserve, for a period of 90
29 days, records and other evidence in its possession pending the issuance
30 of a [warrant] court order or other legal process. The preservation
31 period shall be extended for an additional 90 days upon the request of
32 the law enforcement agency.

33 (cf: P.L. 2005, c.58, s.7)

34

35 2. This act shall take effect on the first day of the fourth month
36 after enactment.

37

38

39

STATEMENT

40

41 This bill would expand the information which a provider of
42 electronic communication or remote computing service, such as an
43 Internet service provider (ISP), is required to disclose to a law
44 enforcement agency which has obtained a grand jury or trial subpoena
45 under the State's wiretapping law. These changes make State law
46 consistent with current federal regulations.

S2630 SARLO, BUONO

4

1 Under current law, providers of electronic communication or
2 remote computing services must disclose to law enforcement agencies
3 which have obtained a grand jury or trial subpoena the subscriber or
4 customer's name, address, telephone or other subscriber number or
5 identity, as well as the length of and type of service utilized by that
6 subscriber or customer.

7 The bill requires these providers to disclose to law enforcement
8 agencies the subscriber's or customer's local and long distance
9 telephone connection records or records of session times and durations
10 and the subscriber's or customer's means and source of payment for the
11 service, including any credit card or bank account numbers. The bill
12 also clarifies that the provider must disclose, not only the subscriber's
13 or customer's telephone number, but any instrument number or
14 temporarily assigned network address. Also, the start date of the
15 service must be disclosed.

SENATE LAW AND PUBLIC SAFETY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 2630

STATE OF NEW JERSEY

DATED: DECEMBER 1, 2005

The Senate Law and Public Safety and Veterans' Affairs Committee reports favorably Senate Bill No. 2630.

This bill would expand the information which a provider of electronic communication or remote computing service, such as an Internet service provider (ISP), is required to disclose to a law enforcement agency which has obtained a grand jury or trial subpoena under the State's wiretapping law. These changes make State law consistent with current federal regulations.

Under current law, providers of electronic communication or remote computing services must disclose to law enforcement agencies which have obtained a grand jury or trial subpoena the subscriber or customer's name, address, telephone or other subscriber number or identity, as well as the length of and type of service utilized by that subscriber or customer.

The bill requires these providers to disclose to law enforcement agencies the subscriber's or customer's local and long distance telephone connection records or records of session times and durations and the subscriber's or customer's means and source of payment for the service, including any credit card or bank account numbers. The bill also clarifies that the provider must disclose not only the subscriber's or customer's telephone number, but any instrument number or temporarily assigned network address. Also, the start date of the service must be disclosed.

As reported by the committee, this bill is identical to Assembly Bill No. 3786 (1R).