



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5495

by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

New Act

Creates the Protecting Household Privacy Act. Provides that a law enforcement agency shall not obtain household electronic data or direct the acquisition of household electronic data from a private party or other third party. Provides exceptions. Provides that if a law enforcement agency obtains household electronic data under the Act, the agency within 30 days shall destroy all information obtained, except that a supervisor at that agency may retain particular information if: (1) there is reasonable suspicion that the information contains evidence of criminal activity; or (2) the owner of the household electronic device consents to voluntarily provide the desired household electronic data. Provides that if the court finds by a preponderance of the evidence that a law enforcement agency obtained household electronic data pertaining to a person or his or her effects in violation of the Act, then the information shall be presumed to be inadmissible in any judicial or administrative proceeding. Provides that any person or entity that provides household electronic data in response to a request from any law enforcement agency under the Act shall take reasonable measures to ensure the confidentiality, integrity, and security of any household electronic data provided to any law enforcement agency, and to limit any production of household electronic data to information relevant to the law enforcement agency request.

LRB101 19415 RLC 68887 b

1 AN ACT concerning household electronic data.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Protecting Household Privacy Act.

6 Section 5. Definitions. As used in this Act:

7 "Electronic communication" means any origination,
8 transmission, emission, transfer, or reception of signs,
9 signals, data, writings, images, video, audio, or intelligence
10 of any nature by telephone, including cellular telephones or a
11 wire, Internet, wireless, radio, electromagnetic,
12 photo-electronic or photo-optical system, cable television,
13 fiber optic, satellite, microwave, Internet-based or wireless
14 distribution network, system, facility or related technology.

15 "Household" means any single or multiple family dwelling,
16 including but not limited to a single family home, house,
17 apartment, mobile home, trailer, building, condominium,
18 duplex, townhouse, or other living quarters, used or intended
19 to be used as a dwelling place and immediately surrounding
20 area.

21 "Household electronic device" means any device intended
22 for use within a household that is capable of facilitating any
23 electronic communication.

1 "Household electronic data" means any information or input
2 provided by a person to a household electronic device.

3 "Law enforcement agency" means any agency of this State or
4 a unit of local government which is vested by law or ordinance
5 with the duty to maintain public order and to enforce criminal
6 laws or ordinances.

7 Section 10. Prohibited use of household electronic data.
8 Except as provided in Section 15, a law enforcement agency
9 shall not obtain household electronic data or direct the
10 acquisition of household electronic data from a private party
11 or other third party.

12 Section 15. Exceptions. This Act does not prohibit a law
13 enforcement agency from obtaining household electronic data
14 if:

15 (1) the law enforcement agency first obtains a court
16 order under Section 108-4 of the Code of Criminal Procedure
17 of 1963 based on probable cause to believe that the person
18 whose household electronic data is sought has committed, is
19 committing, or is about to commit a crime or the effect is
20 evidence of a crime, or if the household electronic data is
21 authorized under an arrest warrant issued under Section
22 107-9 of the Code of Criminal Procedure of 1963 to aid in
23 the apprehension or the arrest of the person named in the
24 arrest warrant. An order issued under a finding of probable

1 cause under this Section must be limited to a period of 60
2 days, renewable by the judge upon a showing of good cause
3 for subsequent periods of 60 days. A court may grant a law
4 enforcement entity's request to obtain household
5 electronic data under this Section through testimony made
6 by electronic means using a simultaneous video and audio
7 transmission between the requestor and a judge, based on
8 sworn testimony communicated in the transmission. The
9 entity making the request, and the court authorizing the
10 request shall follow the procedure under subsection (c) of
11 Section 108-4 of the Code of Criminal Procedure of 1963
12 which authorizes the electronic issuance of search
13 warrants; or

14 (2) the owner of the household electronic device
15 consents to voluntarily provide the desired household
16 electronic data.

17 Section 20. Information retention. If a law enforcement
18 agency obtains household electronic data under Section 15,
19 the agency within 30 days shall destroy all information
20 obtained, except that a supervisor at that agency may retain
21 particular information if:

22 (1) there is reasonable suspicion that the information
23 contains evidence of criminal activity; or

24 (2) the information is relevant to an ongoing
25 investigation or pending criminal trial.

1 Section 25. Information disclosure. If a law enforcement
2 agency obtains household electronic data under Section 15, the
3 agency shall not disclose any information obtained, except that
4 a supervisor of that agency may disclose particular information
5 to another government agency if:

6 (1) there is reasonable suspicion that the information
7 contains evidence of criminal activity; or

8 (2) the information is relevant to an ongoing investigation
9 or pending criminal trial.

10 Section 30. Admissibility. If the court finds by a
11 preponderance of the evidence that a law enforcement agency
12 obtained household electronic data pertaining to a person or
13 his or her effects in violation, then the information shall be
14 presumed to be inadmissible in any judicial or administrative
15 proceeding. The State may overcome this presumption by proving
16 the applicability of a judicially recognized exception to the
17 exclusionary rule of the Fourth Amendment to the United States
18 Constitution or Article I, Section 6 of the Illinois
19 Constitution, or by a preponderance of the evidence that the
20 law enforcement officer was acting in good faith and reasonably
21 believed that one or more of the exceptions identified in
22 Section 15 existed at the time the household electronic data
23 was obtained.

1 Section 35. Providing household electronic data to a law
2 enforcement agency not required. Except as provided in Section
3 15, nothing in this Act shall be construed to require a person
4 or entity to provide household electronic data to a law
5 enforcement agency under this Act. If law enforcement acquires
6 information from a household electronic device under Section
7 15, any information so acquired is subject to Sections 20 and
8 25.

9 Section 40. Security of production. Any person or entity
10 that provides household electronic data in response to a
11 request from any law enforcement agency under this Act shall
12 take reasonable measures to ensure the confidentiality,
13 integrity, and security of any household electronic data
14 provided to any law enforcement agency, and to limit any
15 production of household electronic data to information
16 relevant to the law enforcement agency request.