

1 AN ACT concerning criminal law.

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 primarily
22 intended for use within a household that is capable of
23 facilitating any electronic communication, excluding personal

1 computing devices. For the purposes of this Act, "personal
2 computing devices" means personal computers, cell phones,
3 smartphones, and tablets.

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

6 "Law enforcement agency" means any agency of this State or
7 a political subdivision of this State which is vested by law
8 with the duty to maintain public order and to enforce criminal
9 laws.

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

15 Section 15. Exceptions. This Act does not prohibit a law
16 enforcement agency from obtaining household electronic data:

17 (1) If a law enforcement agency first obtains a warrant
18 under Section 108-4 of the Code of Criminal Procedure of 1963.

19 (2) To respond to a call for emergency services concerning
20 the user or possessor of a household electronic device.

21 (3) In an emergency situation:

22 (A) involving a clear and present danger of imminent
23 death or great bodily harm to a person or persons
24 resulting from a kidnapping, abduction, or the holding of

1 a hostage by force or the threat of the imminent use of
2 force;

3 (B) where there was no previous notice of the
4 emergency to the investigative or law enforcement officer
5 sufficient to obtain prior judicial approval and the
6 officer reasonably believes that an order permitting the
7 obtaining of household electronic data would issue were
8 there prior judicial review;

9 (C) the household electronic data is necessary and the
10 only potential data available to prevent imminent death or
11 great bodily harm to a person or persons; and

12 (D) the data must and can be accessed before a warrant
13 could be issued to prevent imminent death or great bodily
14 harm to a person or persons.

15 (4) With the lawful consent of the owner of the household
16 electronic device or person in actual or constructive
17 possession of the household electronic device, excluding law
18 enforcement personnel.

19 (5) In all emergency cases arising under paragraph (2) or
20 (3), an application for a search warrant approving the
21 previous obtaining of household electronic data must be made
22 within 72 hours of its commencement. In order to approve
23 obtaining household electronic data, the judge must make a
24 determination:

25 (A) that he or she would have granted a search warrant
26 had the information been before the court prior to the

1 obtaining of the household electronic data; and

2 (B) there was an emergency situation as defined in
3 subparagraph (C) of paragraph (3).

4 If an application for approval under this paragraph is
5 denied, the household electronic data obtained under this
6 exception shall be inadmissible in accordance with Section 25.

7 Section 20. Information retention. If a law enforcement
8 agency obtains household electronic data under paragraphs (1)
9 through (3) of Section 15 and does not file criminal charges,
10 the agency shall destroy all information obtained within 60
11 days after obtaining the data, except that a supervisor at
12 that agency may retain particular information if:

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

15 (2) the information is relevant to an ongoing
16 investigation.

17 Section 25. Information disclosure by law enforcement
18 agencies.

19 (a) If a law enforcement agency obtains household
20 electronic data under Section 15, the agency shall not
21 disclose any information obtained, except that a supervisor of
22 that agency may disclose particular information to another
23 government agency, employee of a government agency, or
24 material witness:

1 (1) if the information is relevant to a criminal
2 proceeding or investigation by a grand jury; or

3 (2) with the lawful consent of the owner, or person in
4 actual or constructive possession, of the household
5 electronic device.

6 (b) When disclosing household electronic data to any other
7 party, the disclosing law enforcement agency must make
8 reasonable efforts to limit disclosure to the minimum
9 necessary to accomplish the intended purpose of the
10 disclosure.

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

1 Section 35. Providing household electronic data to a law
2 enforcement agency not required. Except as provided in
3 Section 15, nothing in this Act shall be construed to require a
4 person 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 during transmission to any law enforcement agency, and to
15 limit any production of household electronic data to
16 information responsive to the law enforcement agency request.

17 Section 45. Limitation. Nothing in this Act shall be
18 construed to apply to the interception, recording, wiretap, or
19 other acquisition of electronic communications as they are
20 transmitted in real time.

21 Section 50. Conflict with other laws. In the event of any
22 conflict between this Act and any applicable federal or State
23 law, the requirement that establishes the higher standard for

1 law enforcement to obtain information shall govern.".