



Rep. Ann M. Williams

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10200HB2553ham001

LRB102 13483 RLC 25194 a

1 AMENDMENT TO HOUSE BILL 2553

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2553 by replacing  
3 everything after the enacting clause with the following:

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,

1 apartment, mobile home, trailer, building, condominium,  
2 duplex, townhouse, or other living quarters, used or intended  
3 to be used as a dwelling place and immediately surrounding  
4 area.

5 "Household electronic device" means any device primarily  
6 intended for use within a household that is capable of  
7 facilitating any electronic communication, excluding personal  
8 computing devices. For the purposes of this Act, "personal  
9 computing devices" means personal computers, cell phones,  
10 smartphones, and tablets.

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

13 "Law enforcement agency" means any agency of this State or  
14 a political subdivision of this State which is vested by law  
15 with the duty to maintain public order and to enforce criminal  
16 laws.

17 Section 10. Prohibited use of household electronic data.  
18 Except as provided in Section 15, a law enforcement agency  
19 shall not obtain household electronic data or direct the  
20 acquisition of household electronic data from a private third  
21 party.

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

24 (1) If a law enforcement agency first obtains a warrant

1 under Section 108-4 of the Code of Criminal Procedure of 1963.

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

4 (3) In an emergency situation:

5 (A) involving a clear and present danger of imminent  
6 death or great bodily harm to a person or persons  
7 resulting from a kidnapping, abduction, or the holding of  
8 a hostage by force or the threat of the imminent use of  
9 force;

10 (B) where there was no previous notice of the  
11 emergency to the investigative or law enforcement officer  
12 sufficient to obtain prior judicial approval and the  
13 officer reasonably believes that an order permitting the  
14 obtaining of household electronic data would issue were  
15 there prior judicial review;

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

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

22 (4) With the lawful consent of the owner of the household  
23 electronic device or person in actual or constructive  
24 possession of the household electronic device, excluding law  
25 enforcement personnel.

26 (5) In all emergency cases arising under paragraph (2) or

1 (3), an application for a search warrant approving the  
2 previous obtaining of household electronic data must be made  
3 within 72 hours of its commencement. In order to approve  
4 obtaining household electronic data, the judge must make a  
5 determination:

6 (A) that he or she would have granted a search warrant  
7 had the information been before the court prior to the  
8 obtaining of the household electronic data; and

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

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

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

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

22 (2) the information is relevant to an ongoing  
23 investigation.

24 Section 25. Information disclosure by law enforcement

1 agencies.

2 (a) If a law enforcement agency obtains household  
3 electronic data under Section 15, the agency shall not  
4 disclose any information obtained, except that a supervisor of  
5 that agency may disclose particular information to another  
6 government agency, employee of a government agency, or  
7 material witness:

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

10 (2) with the lawful consent of the owner, or person in  
11 actual or constructive possession, of the household  
12 electronic device.

13 (b) When disclosing household electronic data to any other  
14 party, the disclosing law enforcement agency must make  
15 reasonable efforts to limit disclosure to the minimum  
16 necessary to accomplish the intended purpose of the  
17 disclosure.

18 Section 30. Admissibility. If the court finds by a  
19 preponderance of the evidence that a law enforcement agency  
20 obtained household electronic data pertaining to a person or  
21 his or her effects in violation of this Act, then the  
22 information shall be presumed to be inadmissible in any  
23 judicial or administrative proceeding. The State may overcome  
24 this presumption by proving the applicability of a judicially  
25 recognized exception to the exclusionary rule of the Fourth

1 Amendment to the United States Constitution or Section 6 of  
2 Article I of the Illinois Constitution, or by a preponderance  
3 of the evidence that the law enforcement officer was acting in  
4 good faith and reasonably believed that one or more of the  
5 exceptions identified in Section 15 existed at the time the  
6 household electronic data was obtained.

7 Section 35. Providing household electronic data to a law  
8 enforcement agency not required. Except as provided in  
9 Section 15, nothing in this Act shall be construed to require a  
10 person or entity to provide household electronic data to a law  
11 enforcement agency under this Act. If law enforcement acquires  
12 information from a household electronic device under Section  
13 15, any information so acquired is subject to Sections 20 and  
14 25.

15 Section 40. Security of production. Any person or entity  
16 that provides household electronic data in response to a  
17 request from any law enforcement agency under this Act shall  
18 take reasonable measures to ensure the confidentiality,  
19 integrity, and security of any household electronic data  
20 during transmission to any law enforcement agency, and to  
21 limit any production of household electronic data to  
22 information responsive to the law enforcement agency request.

23 Section 45. Limitation. Nothing in this Act shall be

1 construed to apply to the interception, recording, wiretap, or  
2 other acquisition of electronic communications as they are  
3 transmitted in real time.

4 Section 50. Conflict with other laws. In the event of any  
5 conflict between this Act and any applicable federal or State  
6 law, the requirement that establishes the higher standard for  
7 law enforcement to obtain information shall govern.".