



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB1594

Introduced 2/26/2021, by Sen. Cristina Castro

#### 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. Provides that if a manufacturer of a household electronic device discloses household electronic data to any third party, the manufacturer shall make the following information available on a clear and conspicuous notice on the manufacturer's Internet website: (1) all categories of household electronic data disclosed to third parties; and (2) the names of all third parties that receive household electronic data.

LRB102 11694 KMF 17028 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 "Third party" means (i) a private entity that is a  
8 separate legal entity from the manufacturer of the household  
9 electronic device; (ii) a private entity that does not share  
10 common ownership or common corporate control with the  
11 manufacturer of the household electronic device; or (iii) a  
12 private entity that does not share a brand name or common  
13 branding with the manufacturer of the household electronic  
14 device such that the affiliate relationship is clear to the  
15 customer.

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

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

24 (1) the law enforcement agency first obtains a court

1 order under Section 108-4 of the Code of Criminal  
2 Procedure of 1963 based on probable cause to believe that  
3 the person whose household electronic data is sought has  
4 committed, is committing, or is about to commit a crime or  
5 the effect is evidence of a crime, or if the household  
6 electronic data is authorized under an arrest warrant  
7 issued under Section 107-9 of the Code of Criminal  
8 Procedure of 1963 to aid in the apprehension or the arrest  
9 of the person named in the arrest warrant. An order issued  
10 under a finding of probable cause under this Section must  
11 be limited to a period of 60 days, renewable by the judge  
12 upon a showing of good cause for subsequent periods of 60  
13 days. A court may grant a law enforcement entity's request  
14 to obtain household electronic data under this Section  
15 through testimony made by electronic means using a  
16 simultaneous video and audio transmission between the  
17 requester and a judge, based on sworn testimony  
18 communicated in the transmission. The entity making the  
19 request, and the court authorizing the request shall  
20 follow the procedure under subsection (c) of Section 108-4  
21 of the Code of Criminal Procedure of 1963 which authorizes  
22 the electronic issuance of search warrants; or

23 (2) the owner of the household electronic device  
24 consents to voluntarily provide the desired household  
25 electronic data.

1           Section 20. Information retention. If a law enforcement  
2 agency obtains household electronic data under Section 15,  
3 the agency within 30 days shall destroy all information  
4 obtained, except that a supervisor at that agency may retain  
5 particular information 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  
9 investigation or pending criminal trial.

10          Section 25. Information disclosure by law enforcement  
11 agencies. If a law enforcement agency obtains household  
12 electronic data under Section 15, the agency shall not  
13 disclose any information obtained, except that a supervisor of  
14 that agency may disclose particular information to another  
15 government agency if:

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

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

20          Section 30. Information disclosure by manufacturers. If a  
21 manufacturer of a household electronic device discloses  
22 household electronic data to any third party, the manufacturer  
23 shall make the following information available on a clear and  
24 conspicuous notice on the manufacturer's Internet website:

1           (1) all categories of household electronic data  
2 disclosed to third parties; and

3           (2) the names of all third parties that receive  
4 household electronic data.

5           Section 35. Admissibility. If the court finds by a  
6 preponderance of the evidence that a law enforcement agency  
7 obtained household electronic data pertaining to a person or  
8 his or her effects in violation, then the information shall be  
9 presumed to be inadmissible in any judicial or administrative  
10 proceeding. The State may overcome this presumption by proving  
11 the applicability of a judicially recognized exception to the  
12 exclusionary rule of the Fourth Amendment to the United States  
13 Constitution or Article I, Section 6 of the Illinois  
14 Constitution, or by a preponderance of the evidence that the  
15 law enforcement officer was acting in good faith and  
16 reasonably believed that one or more of the exceptions  
17 identified in Section 15 existed at the time the household  
18 electronic data was obtained.

19           Section 40. Providing household electronic data to a law  
20 enforcement agency not required. Except as provided in Section  
21 15, nothing in this Act shall be construed to require a person  
22 or entity to provide household electronic data to a law  
23 enforcement agency under this Act. If law enforcement acquires  
24 information from a household electronic device under Section

1 15, any information so acquired is subject to Sections 20 and  
2 25.

3 Section 45. Security of production. Any person or entity  
4 that provides household electronic data in response to a  
5 request from any law enforcement agency under this Act shall  
6 take reasonable measures to ensure the confidentiality,  
7 integrity, and security of any household electronic data  
8 provided to any law enforcement agency, and to limit any  
9 production of household electronic data to information  
10 relevant to the law enforcement agency request.