

Subject Search warrants for electronic communication information

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Overview

This bill creates a new section of law addressing how a governmental entity—including a law enforcement agency—can access “electronic communication information” (ECI). The bill requires a search warrant to access ECI and includes certain notification and transparency provisions.

The bill also makes several changes, including repeals, to the existing “Privacy of Communications Act” codified at chapter 626A. This existing Minnesota law is modeled after and nearly identical to the federal Electronic Communications Privacy Act (ECPA), enacted in 1986. See generally 18 U.S.C. ch. 119, ch. 121.

Summary

Section	Description
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1	Search warrant required for electronic communication information.
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Subd. 1. Definitions. Defines key terms.

Subd. 2. Warrant required; exceptions. Requires a government entity to obtain a search warrant in order to require disclosure of ECI. The warrant requirement does not apply if the government entity has “valid consent” or if certain “exigent circumstances” exist.

Subd. 3. Notice to subject. Requires a government entity that accesses ECI to provide notice to the “subject of the information” pursuant to subdivision 4 and the general service of search warrant requirement.

Subd. 4. Notice; temporary nondisclosure of search warrant. Requires the courts to notify individuals named in an ECI warrant, but allows the warrant to remain confidential (so that no notice will be given) in certain circumstances. Even if an ECI warrant remains confidential, however, it must be made public if the evidence from the warrant is used in a criminal proceeding.

Section	Description
	Subd. 5. Reports. Requires reporting by the state court administrator on ECI warrants issued by the courts.
2	Exceptions. Adds a new exception within an existing section of chapter 626A that provides for penalties when a person unlawfully accesses stored communications. This provides that actions authorized by section 1 of the bill would not be prohibited under chapter 626A.
3	Exceptions. Adds a new exception within an existing section of chapter 626A that prohibits certain disclosures of the contents of electronic communications. This provides that actions authorized by section 1 of the bill would not be prohibited under chapter 626A.
4	Records concerning electronic communication service or remote computing service. In chapter 626A, removes cross-references to parts of existing law that are repealed in section 8 of the bill.
5	Requirements for court order. In chapter 626A, removes cross-references to parts of existing law that are repealed in section 8 of the bill.
6	No cause of action against a provider disclosing certain information. Adds a new reference within an existing subdivision of a section of chapter 626A that shields an electronic communication service provider from liability for disclosing information to a governmental entity. This provides that service providers are also shielded from liability for complying with a warrant issued under section 1 of the bill.
7	Payment. In chapter 626A, removes cross-references to parts of existing law that are repealed in section 8 of the bill.
8	Repealer. Repeals several provisions in chapter 626A.



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