

2014 -- H 7514

=====
LC004424
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- INTERNET SERVICE PROVIDERS

Introduced By: Representatives Martin, Canario, Abney, Naughton, and Ucci

Date Introduced: February 13, 2014

Referred To: House Judiciary

(State Police)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 39-2-20.1 of the General Laws in Chapter 39-2 entitled "Duties of
2 Utilities and Carriers" is hereby amended to read as follows:

3 **39-2-20.1. Internet service providers -- Duty to disclose certain information.** -- (a) As
4 used in this chapter:

5 (1) "Internet service provider" means an entity offering the transmission, routing or
6 providing of connections of digital online communications, between or among points specified by
7 a user, of material of the user's choosing, without modification to the content of the material as
8 sent or received and includes a provider of online services or network access, including entities
9 that provide an electronic communication service or remote computing service, but does not mean
10 the offering on a common carrier basis of telecommunication facilities or of telecommunications.

11 (2) "Electronic communication service" means any service which provides to its users
12 the ability to send or receive wire or electronic communications.

13 (3) "Remote computing service" means the provision to the public of computer storage
14 or processing services by means of an electronic communication system.

15 (4) "Foreign entities" means any entity that makes a contract or engages in a term of
16 service agreement with a resident of the State of Rhode Island and a foreign entity.

17 (5) "Proper service" means the delivery of a search warrant or an administrative
18 subpoena by hand, by United States mail, by commercial delivery service, by facsimile, or by any
19 other manner to any officer of a corporation or its general manager in the State of Rhode Island to

1 any natural person designated by the entity as their agent for service of process, or if such
2 corporation has designated a corporate agent.

3 (6) "Service of process on a foreign entity" means that the service of a search warrant or
4 subpoena which is properly served on said foreign entity shall have the same legal force and
5 effect as if served personally within the State of Rhode Island.

6 (b) (1) An Internet service provider, as defined herein, shall disclose subscriber account
7 information consisting of the name, address, IP address and telephone numbers associated with
8 the account to the attorney general or to the superintendent of the Rhode Island state police upon
9 proper service, and with certification under oath by the attorney general or by the superintendent
10 of the Rhode Island state police, that the information is necessary for an officially documented
11 criminal investigation or prosecution of criminal complaint based on probable cause related to:
12 the exploitation for commercial or immoral purposes, pursuant to section 11-9-1; child nudity
13 prohibited in publications pursuant to section 11-9-1.1; child pornography prohibited pursuant to
14 section 11-9-1.3; employment of children for unlawful purposes pursuant to section 11-9-2;
15 seizure and custody of exploited child-proceedings as against neglected child pursuant to section
16 11-9-3; contributing to delinquency pursuant to section 11-9-4; cruelty to or neglect of child
17 pursuant to section 11-9-5; indecent solicitation of a child pursuant to section 11-37-8.8; access to
18 computer for fraudulent purposes pursuant to section 11-52-2; intentional access, alteration,
19 damage, or destruction pursuant to section 11-52-3; cyberstalking prohibited pursuant to section
20 11-52-4.2; violation of restraining order pursuant to section 11-52-4.3; use of false information
21 pursuant to section 11-52-7 and/or video voyeurism pursuant to section 11-64-2.

22 (2) A duly authorized law enforcement person, as designated above, after issuing a
23 certification pursuant to this section, if an arrest, grand jury proceeding, or any criminal
24 prosecution does not result within ~~sixty (60)~~ one hundred (100) days, shall apply to a judge for a
25 search warrant as soon as practicable, but not later than ~~seventy-five (75)~~ one hundred twenty
26 (120) days after issuance of the certification. In the event that such application is not approved, no
27 information obtained or evidence derived from said subpoena shall be received in evidence or
28 otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury,
29 department, office, agency, regulatory body, legislative committee or other governmental
30 authority or committee, and no information concerning any person acquired from such subpoena
31 shall subsequently be used or disclosed in any other manner by state or local officers or
32 employees without the consent of such person.

33 (c) An administrative subpoena issued to an Internet service provider shall authorize the
34 release of non-content-based subscriber information identifying the name, address and telephone

1 number of said account along with the Internet protocol number.

2 (d) Notwithstanding any provision of this chapter, or any other provision of the general
3 or public laws to the contrary, telephone records may not be released by an Internet service
4 provider pursuant to an administrative subpoena. The Rhode Island superior court shall have the
5 authority to enforce said administrative subpoenas upon application by the issuing law
6 enforcement authority.

7 (e) The attorney general and/or the superintendent of the Rhode Island state police who
8 issues an administrative subpoena to Internet service providers related to: the exploitation for
9 commercial or immoral purpose, pursuant to section 11-9-1; child nudity prohibited in
10 publications pursuant to section 11-9-1.1; child pornography prohibited pursuant to section 11-9-
11 1.3; employment of children for unlawful purposes pursuant to section 11-9-2; seizure and
12 custody of exploited child-proceedings as against neglected child pursuant to section 11-9-3;
13 contributing to delinquency pursuant to section 11-9-4; cruelty to or neglect of child pursuant to
14 section 11-9-5; indecent solicitation of a child pursuant to section 11-37-8.8; access to computer
15 for fraudulent purposes pursuant to section 11-52-2; intentional access, alteration, damage, or
16 destruction pursuant to section 11-52-3; cyberstalking prohibited pursuant to section 11-52-4.2;
17 violation of restraining order pursuant to section 11-52-4.3; use of false information pursuant to
18 section 11-52-7; and/or video voyeurism pursuant to section 11-64-2, shall provide an annual
19 report to the general assembly each year detailing the following:

20 (1) The number of administrative subpoenas issued in the previous year;

21 (2) The number of separate criminal investigations for which the administrative
22 subpoenas were issued and whether said administrative subpoenas resulted in an arrest,
23 indictment or criminal information;

24 (3) The number of investigations that remain part of a pending investigation;

25 (4) The number that resulted in the closing of a criminal investigation as unfounded; and

26 (5) The number of investigations that did not result in an arrest, grand jury proceeding,
27 or any criminal prosecution due to an inability to identify the subscriber.

28 (f) The attorney general's office and the Rhode Island state police shall compile and
29 forward said reports to the general assembly on an annual basis by March 31 of each year for the
30 previous year. The reports shall be a public record.

31 (g) No cause of action shall lie in any court against any Internet service provider, its
32 officers, employees, or agents for furnishing or disclosing information, in strict compliance with
33 this section.

34 (h) No law enforcement officer, or any party to these investigations under this section,

1 shall disclose any information obtained as a result of this section, except as it is essential to the
2 proper discharge of their duties.

3 SECTION 2. This act shall take effect upon passage.

=====
LC004424
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC UTILITIES AND CARRIERS -- INTERNET SERVICE PROVIDERS

1 This act would expand the time period that law enforcement officials, who have received
2 internet subscriber account information and have not instituted an arrest, grand jury proceeding,
3 or criminal prosecution have, before they are required to apply for a judicial search warrant, from
4 between sixty (60) days and seventy-five (75) days to between one hundred (100) days and one
5 hundred twenty (120) days.

6 This act would take effect upon passage.

=====
LC004424
=====