

1
2 An act relating to law enforcement
3 communications; providing for a review panel to
4 evaluate and select a strategy to complete
5 implementation of the statewide law enforcement
6 radio system; providing for membership and
7 staffing of the panel; providing for the
8 reduction of certain funds appropriated;
9 providing for termination of the panel;
10 providing an appropriation; amending s.
11 23.1225, F.S.; describing an additional
12 authorized joint city-county law enforcement
13 activity by voluntary cooperation written
14 agreement; amending ss. 810.08, 810.09, F.S.;
15 defining the terms "person authorized" and
16 "authorized person" for purposes of provisions
17 prohibiting trespass; amending s. 901.15, F.S.;
18 specifying lawful arrest without a warrant for
19 trespass in secure areas of airports; providing
20 for immunity from civil liability for arresting
21 law enforcement officers under certain
22 circumstances; amending s. 934.03, F.S.;
23 revising limited authorization for certain
24 personnel to intercept and record specified
25 incoming wire communications; amending s.
26 934.02, F.S.; redefining the terms "wire
27 communication," "electronic, mechanical, or
28 other device," and "electronic communication";
29 amending s. 934.03, F.S.; prohibiting certain
30 disclosure or attempted disclosure of
31 intercepted communications; providing

1 penalties; amending s. 934.07, F.S.; deleting
2 prostitution as an offense for which
3 interception of communications may be
4 authorized; amending s. 934.09, F.S.; providing
5 for emergency interception of certain
6 communications; providing exemptions from
7 requirements for specification of facilities
8 for certain interceptions; amending s. 934.10,
9 F.S.; providing additional defense to civil
10 liability; amending s. 934.23, F.S.; requiring
11 a provider of electronic or remote computer
12 service to provide certain information when
13 subpoenaed; revising grounds for issuance of a
14 court order for disclosure; requiring
15 preservation of records; providing immunity
16 from civil liability; providing for
17 compensation; amending s. 934.27, F.S.;
18 providing additional grounds for immunity from
19 civil liability; amending s. 934.31, F.S.;
20 requiring certain technology to be used in
21 installation of pen registers and trap and
22 trace devices; amending s. 934.34, F.S.;
23 revising conditions under which assistance in
24 installing or using pen registers or trap and
25 trace devices must be provided; providing for
26 emergency pen register and trap and trace
27 device installation; providing an effective
28 date.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

1 Section 1. (1) There is created the State Agency Law
2 Enforcement Radio System Review Panel. The membership of the
3 panel shall consist of three State Senators appointed by the
4 President of the Senate; three State Representatives appointed
5 by the Speaker of the House of Representatives; two members
6 appointed by the Governor; the chairman of the Joint Task
7 Force on State Agency Law Enforcement Communications; and the
8 Director of the Division of Bond Finance within the State
9 Board of Administration. All appointments to the panel must be
10 made by May 19, 2000, or within 30 days after the effective
11 date of this act, whichever occurs later. Members of the panel
12 are not entitled to compensation except for reimbursement, in
13 accordance with section 112.061, Florida Statutes, for travel
14 and per diem expenses associated with official activities of
15 the panel. Such travel and per diem expenses shall be paid by
16 the Department of Management Services.

17 (2) The panel shall review and evaluate a proposal
18 presented to the panel in one or more public meetings by the
19 Department of Management Services to complete the
20 implementation of the statewide law enforcement radio system
21 as authorized by section 282.1095, Florida Statutes. The
22 presentation must be made within 30 days after the successful
23 conclusion of negotiations between the department and the
24 prospective vendor, with the department awarding a contract to
25 the vendor subject to approval of a budget amendment to secure
26 funds for the proposal. The panel shall evaluate whether the
27 proposal provides the best long-term solution for an effective
28 communications system statewide, protects both the investments
29 previously made by the state in developing the system and the
30 future investments to be made, and ensures the optimal value
31 to the state in the future with regard to state resources and

1 assets invested in the system. The panel shall issue a report
2 of its findings and recommendations regarding the proposal,
3 and shall submit the report, within 15 days after the
4 presentation of the proposal by the department, to the
5 Governor, the Speaker of the House of Representatives, the
6 President of the Senate, and the chairperson of the Senate
7 Budget Committee and the House Fiscal Responsibility Council.

8 (3) After presenting the proposal to the review panel,
9 the Department of Management Services may:

10 (a) Recommend to the Board of Trustees of the Internal
11 Improvement Trust Fund that specified state lands and assets
12 associated with the state-agency law enforcement radio system
13 be leased, sold, or otherwise controlled by nonstate entities
14 as part of the proposal.

15 (b) Submit a budget amendment to redirect any funds
16 appropriated specifically for implementation and operation of
17 the radio system in the General Appropriations Act for fiscal
18 year 2000-2001 and the unexpended balances of any prior year
19 appropriations from the State Agency Law Enforcement Radio
20 System Trust Fund as deemed necessary to carry out the
21 proposal, notwithstanding the provisions of sections 216.241
22 and 216.301, Florida Statutes, and pursuant to the provisions
23 of section 216.351, Florida Statutes. Notwithstanding the
24 provisions of section 216.292, Florida Statutes, and pursuant
25 to the provisions of section 216.351, Florida Statutes, such
26 redirection may include establishing new fixed-capital-outlay
27 appropriation categories and may also include transferring
28 funds from fixed-capital-outlay appropriations to
29 operational-appropriation categories.

30 (c) Execute contracts between private vendors and the
31 Department of Management Services which implement the

1 proposal. However, the contracts may not obligate the state to
2 expenditures beyond those which can be met by the unexpended
3 balance of funds specifically appropriated for the law
4 enforcement radio system together with the official projected
5 future revenues of the State Agency Law Enforcement Radio
6 System Trust Fund established by section 282.1095, Florida
7 Statutes. The official projections shall be based on the most
8 recently available forecasts of the Revenue Estimating
9 Conference. Before entering into a contract with any
10 successful bidder, the department shall assure that the
11 contractor's systems are functionally proven, shall undertake
12 a due-diligence review of the contractor's fitness to perform
13 its contracted responsibilities, and shall require that the
14 contractor have an internal system of quality assurance.

15 (4) If the chairpersons of the House Fiscal
16 Responsibility Council and the Senate Budget Committee, or if
17 the Speaker of the House of Representatives and the President
18 of the Senate object to the budget amendment submitted by the
19 department pursuant to subsection (3), in accordance with the
20 provisions of section 216.177, Florida Statutes, the
21 Department of Management Services shall continue to implement
22 the law enforcement radio system as authorized by existing
23 appropriations made by law.

24 (5) The Department of Management Services shall
25 provide adequate staffing for the panel within appropriated
26 staff and resources.

27 (6) The panel is abolished 15 days after the
28 submission of its report, or on March 15, 2001, whichever
29 occurs sooner.

30 Section 2. The sum of \$15,000 is appropriated from the
31 General Revenue Fund to the Department of Management Services

1 for fiscal year 1999-2000, and the sum of \$15,000 is
2 appropriated from the General Revenue Fund to the Department
3 of Management Services for fiscal year 2000-2001, to be used
4 for travel and per diem expenses incurred by members of the
5 State Law Enforcement Radio System Review Panel.

6 Section 3. Paragraph (a) of subsection (1) of section
7 23.1225, Florida Statutes, is amended to read:

8 23.1225 Mutual aid agreements.--

9 (1) The term "mutual aid agreement," as used in this
10 part, refers to one of the following types of agreement:

11 (a) A voluntary cooperation written agreement between
12 two or more law enforcement agencies, or between one or more
13 law enforcement agencies and either a school board that
14 employs school safety officers or a state university that
15 employs or appoints university police officers in accordance
16 with s. 240.268, which agreement permits voluntary cooperation
17 and assistance of a routine law enforcement nature across
18 jurisdictional lines. The agreement must specify the nature
19 of the law enforcement assistance to be rendered, the agency
20 or entity that shall bear any liability arising from acts
21 undertaken under the agreement, the procedures for requesting
22 and for authorizing assistance, the agency or entity that has
23 command and supervisory responsibility, a time limit for the
24 agreement, the amount of any compensation or reimbursement to
25 the assisting agency or entity, and any other terms and
26 conditions necessary to give it effect. Examples of law
27 enforcement activities that may be addressed in a voluntary
28 cooperation written agreement include, but are not limited to,
29 establishing a joint city-county task force on narcotics
30 smuggling, ~~or~~ authorizing school safety officers to enforce
31 laws in an area within 1,000 feet of a school or school board

1 property, or establishing a joint city-county traffic
2 enforcement task force.

3 Section 4. Subsection (3) is added to section 810.08,
4 Florida Statutes, to read:

5 810.08 Trespass in structure or conveyance.--

6 (3) As used in this section, the term "person
7 authorized" means any owner or lessee, or his or her agent, or
8 any law enforcement officer whose department has received
9 written authorization from the owner or lessee, or his or her
10 agent, to communicate an order to depart the property in the
11 case of a threat to public safety or welfare.

12 Section 5. Subsection (3) is added to section 810.09,
13 Florida Statutes, to read:

14 810.09 Trespass on property other than structure or
15 conveyance.--

16 (3) As used in this section, the term "authorized
17 person" or "person authorized" means any owner, or his or her
18 agent, or any law enforcement officer whose department has
19 received written authorization from the owner, or his or her
20 agent, to communicate an order to leave the property in the
21 case of a threat to public safety or welfare.

22 Section 6. Subsection (15) is added to section 901.15,
23 Florida Statutes, to read:

24 901.15 When arrest by officer without warrant is
25 lawful.--A law enforcement officer may arrest a person without
26 a warrant when:

27 (15) There is probable cause to believe that the
28 person has committed trespass in a secure area of an airport
29 when signs are posted in conspicuous areas of the airport
30 which notify that unauthorized entry into such areas
31 constitutes a trespass and specify the methods for gaining

1 authorized access to such areas. An arrest under this
2 subsection may be made on or off airport premises. A law
3 enforcement officer who acts in good faith and exercises due
4 care in making an arrest under this subsection is immune from
5 civil liability that otherwise might result by reason of the
6 law enforcement officer's action.

7 Section 7. Paragraph (g) of subsection (2) of section
8 934.03, Florida Statutes, is amended to read:

9 934.03 Interception and disclosure of wire, oral, or
10 electronic communications prohibited.--

11 (2)

12 (g) It is lawful under ss. 934.03-934.09 for an
13 employee of:

14 1. An ambulance service licensed pursuant to s.
15 401.25, a fire station employing firefighters as defined by s.
16 633.30, a public utility as defined by ss. 365.01 and 366.02,
17 a law enforcement agency as defined by s. 934.02(10), or any
18 other entity with published emergency telephone numbers;

19 2. An agency operating an emergency telephone number
20 "911" system established pursuant to s. 365.171; or

21 3. The central abuse hotline operated pursuant to s.
22 39.201,

23
24 to intercept and record incoming wire communications; however,
25 such employee may intercept and record incoming wire
26 communications on designated "911" telephone numbers and
27 published nonemergency ~~emergency~~ telephone numbers staffed by
28 trained dispatchers at public safety answering points only.

29 It is also lawful for such employee to intercept and record
30 outgoing wire communications to the numbers from which such
31 incoming wire communications were placed when necessary to

1 obtain information required to provide the emergency services
2 being requested.

3 Section 8. Subsections (1), (4), and (12) of section
4 934.02, Florida Statutes, are amended to read:

5 934.02 Definitions.--As used in this chapter:

6 (1) "Wire communication" means any aural transfer made
7 in whole or in part through the use of facilities for the
8 transmission of communications by the aid of wire, cable, or
9 other like connection between the point of origin and the
10 point of reception including the use of such connection in a
11 switching station furnished or operated by any person engaged
12 in providing or operating such facilities for the transmission
13 of intrastate, interstate, or foreign communications or
14 communications affecting intrastate, interstate, or foreign
15 commerce. Such term includes any electronic storage of such
16 communication ~~but does not include the radio portion of a~~
17 ~~cordless telephone communication that is transmitted between~~
18 ~~the cordless telephone handset and the base unit.~~

19 (4) "Electronic, mechanical, or other device" means
20 any device or apparatus which can be used to intercept a wire,
21 electronic, or oral communication other than:

22 (a) Any telephone or telegraph instrument, equipment,
23 or facility, or any component thereof:

24 1. Furnished to the subscriber or user by a provider
25 of wire or electronic communication service in the ordinary
26 course of its business and being used by the subscriber or
27 user in the ordinary course of its business or furnished by
28 such subscriber or user for connection to the facilities of
29 such service and used in the ordinary course of its business;
30 or

31

1 2. Being used by a provider of wire or electronic
2 communications service ~~communications common carrier~~ in the
3 ordinary course of its business or by an investigative or law
4 enforcement officer in the ordinary course of her or his
5 duties.

6 (b) A hearing aid or similar device being used to
7 correct subnormal hearing to not better than normal.

8 (12) "Electronic communication" means any transfer of
9 signs, signals, writing, images, sounds, data, or intelligence
10 of any nature transmitted in whole or in part by a wire,
11 radio, electromagnetic, photoelectronic, or photooptical
12 system that affects intrastate, interstate, or foreign
13 commerce, but does not include:

14 ~~(a) The radio portion of a cordless telephone~~
15 ~~communication that is transmitted between the cordless~~
16 ~~telephone handset and the base unit;~~

17 (a)~~(b)~~ Any wire or oral communication;

18 (b)~~(c)~~ Any communication made through a tone-only
19 paging device; ~~or~~

20 (c)~~(d)~~ Any communication from an electronic or
21 mechanical device which permits the tracking of the movement
22 of a person or an object; or—

23 (d) Electronic funds transfer information stored by a
24 financial institution in a communications system used for the
25 electronic storage and transfer of funds.

26 Section 9. Subsection (1), paragraphs (a) and (e) of
27 subsection (2), and subsection (4) of section 934.03, Florida
28 Statutes, are amended to read:

29 934.03 Interception and disclosure of wire, oral, or
30 electronic communications prohibited.--

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1 (1) Except as otherwise specifically provided in this
2 chapter, any person who:

3 (a) Intentionally intercepts, endeavors to intercept,
4 or procures any other person to intercept or endeavor to
5 intercept any wire, oral, or electronic communication;

6 (b) Intentionally uses, endeavors to use, or procures
7 any other person to use or endeavor to use any electronic,
8 mechanical, or other device to intercept any oral
9 communication when:

10 1. Such device is affixed to, or otherwise transmits a
11 signal through, a wire, cable, or other like connection used
12 in wire communication; or

13 2. Such device transmits communications by radio or
14 interferes with the transmission of such communication;

15 (c) Intentionally discloses, or endeavors to disclose,
16 to any other person the contents of any wire, oral, or
17 electronic communication, knowing or having reason to know
18 that the information was obtained through the interception of
19 a wire, oral, or electronic communication in violation of this
20 subsection; ~~or~~

21 (d) Intentionally uses, or endeavors to use, the
22 contents of any wire, oral, or electronic communication,
23 knowing or having reason to know that the information was
24 obtained through the interception of a wire, oral, or
25 electronic communication in violation of this subsection; or

26 (e) Intentionally discloses, or endeavors to disclose,
27 to any other person the contents of any wire, oral, or
28 electronic communication intercepted by means authorized by
29 subparagraph (2)(a)2., paragraph (2)(b), paragraph (2)(c), s.
30 934.07, or s. 934.09 when that person knows or has reason to
31 know that the information was obtained through the

1 interception of such a communication in connection with a
2 criminal investigation, has obtained or received the
3 information in connection with a criminal investigation, and
4 intends to improperly obstruct, impede, or interfere with a
5 duly authorized criminal investigation;

6
7 shall be punished as provided in subsection (4).

8 (2)(a)1. It is lawful under ss. 934.03-934.09 for an
9 operator of a switchboard, or an officer, employee, or agent
10 of a provider of wire or electronic communication service
11 whose facilities are used in the transmission of a wire or
12 electronic communication, to intercept, disclose, or use that
13 communication in the normal course of his or her employment
14 while engaged in any activity which is a necessary incident to
15 the rendition of his or her service or to the protection of
16 the rights or property of the provider of that service, except
17 that a provider of wire communication service to the public
18 shall not utilize service observing or random monitoring
19 except for mechanical or service quality control checks.

20 2. Notwithstanding any other law, a provider of wire,
21 oral, or electronic communication service, or an officer,
22 employee, or agent thereof, or landlord, custodian, or other
23 person, may provide information, facilities, or technical
24 assistance to a person authorized by law to intercept wire,
25 oral, or electronic communications if such provider, or an
26 officer, employee, or agent thereof, or landlord, custodian,
27 or other person, has been provided with:

28 a. A court order directing such assistance signed by
29 the authorizing judge; or

30 b. A certification in writing by a person specified in
31 s. 934.09(7) that no warrant or court order is required by

1 law, that all statutory requirements have been met, and that
2 the specified assistance is required, setting forth the period
3 of time during which the provision of the information,
4 facilities, or technical assistance is authorized and
5 specifying the information, facilities, or technical
6 assistance required.

7 3. A provider of wire, oral, or electronic
8 communication service, or an officer, employee, or agent
9 thereof, or landlord, custodian, or other person may not
10 disclose the existence of any interception or the device used
11 to accomplish the interception with respect to which the
12 person has been furnished an order under ss. 934.03-934.09,
13 except as may otherwise be required by legal process and then
14 only after prior notice to the Governor, the Attorney General,
15 the statewide prosecutor, or a state attorney, as may be
16 appropriate. Any such disclosure renders such person liable
17 for the civil damages provided under s. 934.10 and such person
18 may be prosecuted under s. 934.43. An action may not be
19 brought against any provider of wire, oral, or electronic
20 communication service, or an officer, employee, or agent
21 thereof, or landlord, custodian, or other person for providing
22 information, facilities, or assistance in accordance with the
23 terms of a court order under ss. 934.03-934.09.

24 (e) It is unlawful to intercept any wire, oral, or
25 electronic communication for the purpose of committing any
26 criminal act.

27 (4)(a) Except as provided in paragraph (b), whoever
28 violates subsection (1) is guilty of a felony of the third
29 degree, punishable as provided in s. 775.082, s. 775.083, s.
30 775.084, or s. 934.41.

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1 (b) If the offense is a first offense under paragraph
2 (a) and is not for any tortious or illegal purpose or for
3 purposes of direct or indirect commercial advantage or private
4 commercial gain, and the wire or electronic communication with
5 respect to which the offense under paragraph (a) was committed
6 is a radio communication that is not scrambled, encrypted or,
7 or transmitted using modulation techniques the essential
8 parameters of which have been withheld from the public with
9 the intention of preserving the privacy of such communication,
10 then:

11 1. If the communication is not the radio portion of a
12 cellular telephone communication, a cordless telephone
13 communication that is transmitted between the cordless
14 telephone handset and the base unit, a public land mobile
15 radio service communication, or a paging service
16 communication, and the conduct is not that described in
17 subparagraph (2)(h)7., the person committing the offense is
18 guilty of a misdemeanor of the first degree, punishable as
19 provided in s. 775.082 or s. 775.083.

20 2. If the communication is the radio portion of a
21 cellular telephone communication, a cordless telephone
22 communication that is transmitted between the cordless
23 telephone handset and the base unit, a public land mobile
24 radio service communication, or a paging service
25 communication, the person committing the offense is guilty of
26 a misdemeanor of the second degree, punishable as provided in
27 s. 775.082 or s. 775.083.

28 Section 10. Section 934.07, Florida Statutes, is
29 amended to read:

30 934.07 Authorization for interception of wire, oral,
31 or electronic communications.--The Governor, the Attorney

1 General, the statewide prosecutor, or any state attorney may
2 authorize an application to a judge of competent jurisdiction
3 for, and such judge may grant in conformity with ss.
4 934.03-934.09, an order authorizing or approving the
5 interception of wire, oral, or electronic communications by
6 the Department of Law Enforcement or any law enforcement
7 agency as defined in s. 934.02 having responsibility for the
8 investigation of the offense as to which the application is
9 made when such interception may provide or has provided
10 evidence of the commission of the offense of murder,
11 kidnapping, arson, gambling, robbery, burglary, theft, dealing
12 in stolen property, ~~prostitution~~, criminal usury, bribery, or
13 extortion; any violation of chapter 893; any violation of the
14 provisions of the Florida Anti-Fencing Act; any violation of
15 chapter 895; any violation of chapter 896; any violation of
16 chapter 815; any violation of chapter 847; any violation of s.
17 827.071; any violation of s. 944.40; or any conspiracy to
18 commit any violation of the laws of this state relating to the
19 crimes specifically enumerated above.

20 Section 11. Paragraph (b) of subsection (1) and
21 paragraph (d) of subsection (3) of section 934.09, Florida
22 Statutes, are amended, present subsections (7) through (11) of
23 that section are renumbered subsections (8) through (12),
24 respectively, and amended, and a new subsection (7) is added
25 to that section, to read:

26 934.09 Procedure for interception of wire, oral, or
27 electronic communications.--

28 (1) Each application for an order authorizing or
29 approving the interception of a wire, oral, or electronic
30 communication under ss. 934.03-934.09 shall be made in writing
31 upon oath or affirmation to a judge of competent jurisdiction

1 and shall state the applicant's authority to make such
2 application. Each application shall include the following
3 information:

4 (b) A full and complete statement of the facts and
5 circumstances relied upon by the applicant to justify his or
6 her belief that an order should be issued, including:

7 1. Details as to the particular offense that has been,
8 is being, or is about to be committed.

9 2. Except as provided in subsection (11)~~(10)~~, a
10 particular description of the nature and location of the
11 facilities from which, or the place where, the communications
12 are to be intercepted.

13 3. A particular description of the type of
14 communications sought to be intercepted.

15 4. The identity of the person, if known, committing
16 the offense and whose communications are to be intercepted.

17 (3) Upon such application, the judge may enter an ex
18 parte order, as requested or as modified, authorizing or
19 approving interception of wire, oral, or electronic
20 communications within the territorial jurisdiction of the
21 court in which the judge is sitting, and outside such
22 jurisdiction but within the State of Florida in the case of a
23 mobile interception device authorized by the judge within such
24 jurisdiction, if the judge determines on the basis of the
25 facts submitted by the applicant that:

26 (d) Except as provided in subsection (11)~~(10)~~, there
27 is probable cause for belief that the facilities from which,
28 or the place where, the wire, oral, or electronic
29 communications are to be intercepted are being used, or are
30 about to be used, in connection with the commission of such
31

1 offense, or are leased to, listed in the name of, or commonly
2 used by such person.

3 (7) Notwithstanding any other provision of this
4 chapter, any investigative or law enforcement officer
5 specially designated by the Governor, the Attorney General,
6 the statewide prosecutor, or a state attorney acting under
7 this chapter, who reasonably determines that:

8 (a) An emergency exists that:

9 1. Involves immediate danger of death or serious
10 physical injury to any person or the danger of escape of a
11 prisoner; and

12 2. Requires that a wire, oral, or electronic
13 communication be intercepted before an order authorizing such
14 interception can, with due diligence, be obtained; and

15 (b) There are grounds upon which an order could be
16 entered under this chapter to authorize such interception

17
18 may intercept such wire, oral, or electronic communication if
19 an application for an order approving the interception is made
20 in accordance with this section within 48 hours after the
21 interception has occurred or begins to occur. In the absence
22 of an order, such interception shall immediately terminate
23 when the communication sought is obtained or when the
24 application for the order is denied, whichever is earlier. If
25 such application for approval is denied, or in any other case
26 in which the interception is terminated without an order
27 having been issued, the contents of any wire, oral, or
28 electronic communication intercepted shall be treated as
29 having been obtained in violation of s. 934.03(4), and an
30 inventory shall be served as provided for in paragraph (8)(e)
31 on the person named in the application.

1 (8)(a)~~(7)(a)~~ The contents of any wire, oral, or
2 electronic communication intercepted by any means authorized
3 by ss. 934.03-934.09 shall, if possible, be recorded on tape
4 or wire or other comparable device. The recording of the
5 contents of any wire, oral, or electronic communication under
6 this subsection shall be kept in such a way as will protect
7 the recording from editing or other alterations. Immediately
8 upon the expiration of the period of the order, or extensions
9 thereof, such recordings shall be made available to the judge
10 issuing such order and sealed under his or her directions.
11 Custody of the recordings shall be wherever the judge orders.
12 They shall not be destroyed except upon an order of the
13 issuing or denying judge, or that judge's successor in office,
14 and in any event shall be kept for 10 years. Duplicate
15 recordings may be made for use or disclosure pursuant to the
16 provisions of s. 934.08(1) and (2) for investigations.

17 (b) The presence of the seal provided for by this
18 subsection, or a satisfactory explanation for the absence
19 thereof, shall be a prerequisite for the use or disclosure of
20 the contents of any wire, oral, or electronic communication or
21 evidence derived therefrom under s. 934.08(3), as required by
22 federal law.

23 (c) Applications made and orders granted under ss.
24 934.03-934.09 shall be sealed by the judge. Custody of the
25 applications and orders shall be wherever the judge directs.
26 As required by federal law, such applications and orders shall
27 be disclosed only upon a showing of good cause before a judge
28 of competent jurisdiction and shall not be destroyed except on
29 order of the issuing or denying judge, or that judge's
30 successor in office, and in any event shall be kept for 10
31 years.

1 (d) Any violation of the provisions of this subsection
2 may be punished as contempt of the issuing or denying judge.

3 (e) Within a reasonable time but not later than 90
4 days after the termination of the period of an order or
5 extensions thereof, the issuing or denying judge shall cause
6 to be served on the persons named in the order or the
7 application, and such other parties to intercepted
8 communications as the judge may determine in his or her
9 discretion to be in the interest of justice, an inventory
10 which shall include notice of:

11 1. The fact of the entry of the order or the
12 application.

13 2. The date of the entry and the period of authorized,
14 approved, or disapproved interception, or the denial of the
15 application.

16 3. The fact that during the period wire, oral, or
17 electronic communications were or were not intercepted.

18
19 The judge, upon the filing of a motion, may make available to
20 such person or the person's counsel for inspection such
21 portions of the intercepted communications, applications, and
22 orders as the judge determines to be in the interest of
23 justice. On an ex parte showing of good cause to a judge of
24 competent jurisdiction, the serving of the inventory required
25 by this paragraph may be postponed.

26 (9)~~(8)~~ As required by federal law, the contents of any
27 intercepted wire, oral, or electronic communication or
28 evidence derived therefrom shall not be received in evidence
29 or otherwise disclosed in any trial, hearing, or other
30 proceeding unless each party, not less than 10 days before the
31 trial, hearing, or proceeding, has been furnished with a copy

1 of the court order and accompanying application under which
2 the interception was authorized or approved. This 10-day
3 period may be waived by the judge if he or she finds that it
4 was not possible to furnish the party with the above
5 information 10 days before the trial, hearing, or proceeding
6 and that the party will not be prejudiced by the delay in
7 receiving such information.

8 (10)(a)(9)(a) Any aggrieved person in any trial,
9 hearing, or proceeding in or before any court, department,
10 officer, agency, regulatory body, or other authority may move
11 to suppress the contents of any intercepted wire, oral, or
12 electronic communication, or evidence derived therefrom, on
13 the grounds that:

- 14 1. The communication was unlawfully intercepted;
- 15 2. The order of authorization or approval under which
16 it was intercepted is insufficient on its face; or
- 17 3. The interception was not made in conformity with
18 the order of authorization or approval.

19
20 Such motion shall be made before the trial, hearing, or
21 proceeding unless there was no opportunity to make such motion
22 or the person was not aware of the grounds of the motion. If
23 the motion is granted, the contents of the intercepted wire or
24 oral communication, or evidence derived therefrom, shall be
25 treated as having been obtained in violation of ss.

26 934.03-934.09. The judge, upon the filing of such motion by
27 the aggrieved person, may make available to the aggrieved
28 person or his or her counsel for inspection such portions of
29 the intercepted communication or evidence derived therefrom as
30 the judge determines to be in the interest of justice.

31

1 (b) In addition to any other right to appeal, the
2 state shall have the right to appeal from an order granting a
3 motion to suppress made under paragraph (a) or the denial of
4 an application for an order of approval if the attorney shall
5 certify to the judge or other official granting such motion or
6 denying such application that the appeal is not taken for
7 purposes of delay. Such appeal shall be taken within 30 days
8 after the date the order was entered and shall be diligently
9 prosecuted.

10 (c) The remedies and sanctions described in ss.
11 934.03-934.10 with respect to the interception of electronic
12 communications are the only judicial remedies and sanctions
13 for violations of those sections involving such
14 communications.

15 (11)~~(10)~~ The requirements of subparagraph (1)(b)2. and
16 paragraph (3)(d) relating to the specification of the
17 facilities from which, or the place where, the communication
18 is to be intercepted do not apply if:

19 (a) In the case of an application with respect to the
20 interception of an oral communication:

21 1. The application is by an agent or officer of a law
22 enforcement agency and is approved by the Governor, the
23 Attorney General, the statewide prosecutor, or a state
24 attorney.

25 2. The application contains a full and complete
26 statement as to why such specification is not practical and
27 identifies the person committing the offense and whose
28 communications are to be intercepted.

29 3. The judge finds that such specification is not
30 practical.

31

1 (b) In the case of an application with respect to a
2 wire or electronic communication:

3 1. The application is by an agent or officer of a law
4 enforcement agency and is approved by the Governor, the
5 Attorney General, the statewide prosecutor, or a state
6 attorney.

7 2. The application identifies the person believed to
8 be committing the offense and whose communications are to be
9 intercepted and the applicant makes a showing that there is
10 probable cause to believe that the person's actions could have
11 the effect of thwarting interception from a specified facility
12 ~~of a purpose, on the part of that person, to thwart~~
13 ~~interception by changing facilities.~~

14 3. The judge finds that such showing ~~purpose~~ has been
15 adequately made ~~shown~~.

16 4. The order authorizing or approving the interception
17 is limited to interception only for such time as it is
18 reasonable to presume that the person identified in the
19 application is or was reasonably proximate to the instrument
20 through which such communication will be or was transmitted.

21 (12)~~(11)~~ If an interception of a communication is to
22 be carried out pursuant to subsection~~(11)~~~~(10)~~, such
23 interception may not begin until the facilities from which, or
24 the place where, the communication is to be intercepted is
25 ascertained by the person implementing the interception order.
26 A provider of wire or electronic communications service that
27 has received an order as provided under paragraph~~(11)~~~~(b)~~
28 ~~(10)~~~~(b)~~ may petition the court to modify or quash the order on
29 the ground that the interception cannot be performed in a
30 timely or reasonable fashion. The court, upon notice to the
31 state, shall decide such a petition expeditiously.

1 Section 12. Subsection (2) of section 934.10, Florida
2 Statutes, is amended to read:

3 934.10 Civil remedies.--

4 (2) A good faith reliance on:

5 (a) A court order, subpoena, or legislative
6 authorization as provided in ss. 934.03-934.09, ~~or~~

7 (b) A request of an investigative or law enforcement
8 officer under s. 934.09(7), or

9 (c)~~(b)~~ A good faith determination that ~~federal or~~
10 Florida or federal law, other than 18 U.S.C. s. 2511(2)(d),
11 permitted the conduct complained of

12
13 shall constitute a complete defense to any civil or criminal,
14 or administrative action arising out of such conduct under the
15 laws of this state.

16 Section 13. Subsections (4) and (5) of section 934.23,
17 Florida Statutes, are amended, and subsections (7) and (8) are
18 added to that section, to read:

19 934.23 Requirements for governmental access.--

20 (4)(a) Except as provided in paragraph (b), a provider
21 of electronic communication service or remote computing
22 service may disclose a record or other information pertaining
23 to a subscriber or customer of such service, not including the
24 contents of communication covered by subsection (1) or
25 subsection (2), to any person other than an investigative or
26 law enforcement officer.

27 (b) A provider of electronic communication service or
28 remote computing service shall disclose a record or other
29 information pertaining to a subscriber to or customer of such
30 service, not including the contents of communications covered
31 by subsection (1) or subsection (2), to an investigative or

1 law enforcement officer only when the investigative or law
2 enforcement officer:

3 ~~1. Uses a subpoena;~~

4 ~~1.2.~~ Obtains a warrant issued by the judge of a court
5 of competent jurisdiction;

6 ~~2.3.~~ Obtains a court order for such disclosure under
7 subsection (5); or

8 ~~3.4.~~ Has the consent of the subscriber or customer to
9 such disclosure.

10 (c) A provider of electronic communication service or
11 remote computing service shall disclose to an investigative or
12 law enforcement officer the name, address, telephone toll
13 billing records, telephone number or other subscriber number
14 or identity, and length of service as a subscriber or customer
15 of such service and the types of services the subscriber or
16 customer used when the governmental entity uses a subpoena.

17 ~~(d)(c)~~ An investigative or law enforcement officer who
18 receives records or information under this subsection is not
19 required to provide notice to a subscriber or customer.

20 (5) A court order for disclosure under subsection (2),
21 subsection (3), or subsection (4) shall issue only if the
22 investigative or law enforcement officer offers specific and
23 articulable facts showing that there are reasonable grounds
24 ~~shows that there is reason~~ to believe the contents of a wire
25 or electronic communication or the records of other
26 information sought are relevant and material to an ongoing
27 criminal investigation to a legitimate law enforcement
28 inquiry. A court issuing an order pursuant to this section,
29 on a motion made promptly by the service provider, may quash
30 or modify such order ~~on motion made promptly by the service~~
31 ~~provider~~ if the information or records requested are unusually

1 voluminous in nature or compliance with such order otherwise
2 would cause an undue burden on such provider.

3 (7)(a) A provider of wire or electronic communication
4 services or a remote computing service, upon the request of an
5 investigative or law enforcement officer, shall take all
6 necessary steps to preserve records and other evidence in its
7 possession pending the issuance of a court order or other
8 process.

9 (b) Records referred to in paragraph (a) shall be
10 retained for a period of 90 days, which shall be extended for
11 an additional 90 days upon a renewed request by an
12 investigative or law enforcement officer.

13 (8) A provider of electronic communication service, a
14 remote computing service, or any other person who furnished
15 assistance pursuant to this section shall be held harmless
16 from any claim and civil liability resulting from the
17 disclosure of information pursuant to this section and shall
18 be reasonably compensated for reasonable expenses incurred in
19 providing such assistance.

20 Section 14. Subsection (4) of section 934.27, Florida
21 Statutes, is amended to read:

22 934.27 Civil action: relief; damages; defenses.--

23 (4) A good faith reliance on any of the following is a
24 complete defense to any civil or criminal action brought under
25 ss. 934.21-934.28:

26 (a) A court warrant or order, a subpoena, or a
27 statutory authorization.

28 (b) A request of an investigative or law enforcement
29 officer under s. 934.09(7).

30 (c)~~(b)~~ A good faith determination that s. 934.03(3)
31 permitted the conduct complained of.

1 Section 15. Present subsection (3) of section 934.31,
2 Florida Statutes, is renumbered as subsection (5), and new
3 subsections (3) and (4) are added to that section, to read:

4 934.31 General prohibition on pen register and trap
5 and trace device use; exception.--

6 (3) An investigative or law enforcement officer
7 authorized to install and use a pen register under ss.
8 934.31-934.34 shall use technology reasonably available to him
9 or her which restricts the recording or decoding of electronic
10 or other impulses to the dialing and signaling information
11 used in call processing.

12 (4)(a) Notwithstanding any other provision of this
13 chapter, any investigative or law enforcement officer
14 specially designated by the Governor, the Attorney General,
15 the statewide prosecutor, or a state attorney acting pursuant
16 to this chapter, who reasonably determines that:

17 1. An emergency exists which:

18 a. Involves immediate danger of death or serious
19 physical injury to any person or the danger of escape of a
20 prisoner; and

21 b. Requires the installation and use of a pen register
22 or a trap and trace device before an order authorizing such
23 installation and use can, with due diligence, be obtained; and

24 2. There are grounds upon which an order could be
25 entered under this chapter to authorize such installation and
26 use,

27
28 may have installed and use a pen register or trap and trace
29 device if, within 48 hours after the installation has occurred
30 or begins to occur, an order approving the installation or use
31 is issued in accordance with s. 934.33.

1 (b) In the absence of an authorizing order, such use
2 shall immediately terminate when the information sought is
3 obtained, when the application for the order is denied, or
4 when 48 hours have lapsed since the installation of the pen
5 register or trap and trace device, whichever is earlier.

6 (c) The knowing installation or use by any
7 investigative or law enforcement officer of a pen register or
8 trap and trace device pursuant to paragraph (a) without
9 application for the authorizing order within 48 hours after
10 the installation constitutes a violation of s. 934.31.

11 (d) A provider of wire or electronic service,
12 landlord, custodian, or other person who has furnished
13 facilities or technical assistance pursuant to this subsection
14 shall be held harmless from any claims and civil liability
15 resulting from the disclosure of information pursuant to this
16 subsection and shall be reasonably compensated for reasonable
17 expenses incurred in providing such facilities and assistance.

18 Section 16. Subsection (2) of section 934.34, Florida
19 Statutes, is amended to read:

20 934.34 Assistance in installation and use of a pen
21 register or a trap and trace device.--

22 (2) Upon the request of the applicant specified in s.
23 934.32(1), a provider of a wire or electronic communication
24 service, landlord, custodian, or other person shall install a
25 trap and trace device forthwith on the appropriate line and
26 shall furnish such investigative or law enforcement officer or
27 other applicant all additional information, facilities, and
28 technical assistance, including installation and operation of
29 the device unobtrusively and with a minimum of interference
30 with the services that the person so ordered by the court
31 accords the party with respect to whom the installation and

1 use is to take place if such installation and assistance is
2 directed by a court order as provided in s. 934.33(2)(b).
3 Unless otherwise ordered by the court, the results of the trap
4 and trace device shall be furnished, pursuant to s.
5 934.33(2)(b) or s. 934.31(4), to an officer of the law
6 enforcement agency designated in the court order at reasonable
7 intervals during regular business hours for the duration of
8 the order. The obligation of a provider of electronic
9 communication service under such an order or under such
10 emergency pen register or trap and trace device installation
11 may include, but is not limited to, conducting an in-progress
12 trace, or providing other assistance to support the
13 investigation as may be specified in the order.

14 Section 17. This act shall take effect upon becoming a
15 law.

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