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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/11/2019	.	
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The Committee on Criminal Justice (Brandes) recommended the following:

1 **Senate Substitute for Amendment (531094) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Subsection (3) of section 933.02, Florida
7 Statutes, is amended to read:

8 933.02 Grounds for issuance of search warrant.—Upon proper
9 affidavits being made, a search warrant may be issued under the
10 provisions of this chapter upon any of the following grounds:



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11 (3) When any property, or when content held within a
12 cellular phone, portable electronic communication device, or
13 microphone-enabled household device as defined in s. 934.02,
14 F.S., constitutes evidence relevant to proving that a felony has
15 been committed;

16
17 This section also applies to any papers or documents used as a
18 means of or in aid of the commission of any offense against the
19 laws of the state.

20 Section 2. Section 933.04, Florida Statutes, is amended to
21 read

22 933.04 Affidavits.—The right of the people to be secure in
23 their persons, houses, papers and effects against unreasonable
24 seizures and searches and against the unreasonable interception
25 of private communications by any means shall not be violated and
26 no search warrant shall be issued except upon probable cause,
27 supported by oath or affirmation particularly describing the
28 place to be searched and the person and thing to be seized.

29 Section 3. Section 934.01, Florida Statutes, is amended to
30 read:

31 934.01 Legislative findings.—On the basis of its own
32 investigations and of published studies, the Legislature makes
33 the following findings:

34 (1) Wire communications are normally conducted through the
35 use of facilities which form part of an intrastate network. The
36 same facilities are used for interstate and intrastate
37 communications.

38 (2) In order to protect effectively the privacy of wire,
39 ~~and~~ oral, and electronic communications, to protect the



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40 integrity of court and administrative proceedings, and to
41 prevent the obstruction of intrastate commerce, it is necessary
42 for the Legislature to define the circumstances and conditions
43 under which the interception of wire, and oral, and electronic
44 communications may be authorized and to prohibit any
45 unauthorized interception of such communications and the use of
46 the contents thereof in evidence in courts and administrative
47 proceedings.

48 (3) Organized criminals make extensive use of wire, and
49 oral, and electronic communications in their criminal
50 activities. The interception of such communications to obtain
51 evidence of the commission of crimes or to prevent their
52 commission is an indispensable aid to law enforcement and the
53 administration of justice.

54 (4) To safeguard the privacy of innocent persons, the
55 interception of wire, ~~or~~ oral, or electronic communications when
56 none of the parties to the communication has consented to the
57 interception should be allowed only when authorized by a court
58 of competent jurisdiction and should remain under the control
59 and supervision of the authorizing court. Interception of wire,
60 and oral, and electronic communications should further be
61 limited to certain major types of offenses and specific
62 categories of crime with assurance that the interception is
63 justified and that the information obtained thereby will not be
64 misused.

65 (5) To safeguard the privacy of innocent persons, the
66 Legislature recognizes that the subjective expectation of
67 privacy in real-time cell-site location data, real-time precise
68 global positioning system location data, and historical precise



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69 global positioning system location data which society is now
70 prepared to accept is objectively reasonable. As such, the law
71 enforcement collection of the precise location of a person,
72 cellular phone, or portable electronic communication device
73 without the consent of the person or owner of the cellular phone
74 or portable electronic communication device should be allowed
75 only when authorized by a search warrant issued by a court of
76 competent jurisdiction and should remain under the control and
77 supervision of the authorizing court.

78 (6) The Legislature recognizes that the use of portable
79 electronic communication devices is growing at a rapidly
80 increasing rate. These devices can store, and encourage the
81 storing of, an almost limitless amount of personal and private
82 information. Often linked to the Internet, these devices are
83 commonly used to access personal and business information and
84 databases in computers and servers that can be located anywhere
85 in the world. The user of a portable electronic communication
86 device has a reasonable and justifiable expectation of privacy
87 in the information that these devices contain.

88 (7) The Legislature recognizes that the use of household
89 electronic devices, including microphone-enabled household
90 devices, is growing at a rapidly increasing rate. These devices
91 often contain microphones that listen for and respond to
92 environmental cues. These household devices are generally
93 connected to and communicate through the Internet, resulting in
94 the storage of and accessibility to daily household information
95 in a device itself or in a remote computing service. Persons
96 should not have to choose between using household technological
97 enhancements and conveniences or preserving the right to privacy



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98 in one's home.

99 Section 4. Subsection (2) of section 934.02, Florida
100 Statutes, is amended, and subsections (27) and (28) are added to
101 that section, to read:

102 934.02 Definitions.—As used in this chapter:

103 (2) "Oral communication" means any oral communication
104 uttered by a person exhibiting an expectation that such
105 communication is not subject to interception under circumstances
106 justifying such expectation, including the use of a microphone-
107 enabled household device, and does not mean any public oral
108 communication uttered at a public meeting or any electronic
109 communication.

110 (27) "Microphone-enabled household device" means a device,
111 sensor, or other physical object within a residence:

112 (a) Capable of connecting to the Internet, directly or
113 indirectly, or to another connected device;

114 (b) Capable of creating, receiving, accessing, processing,
115 or storing electronic data or communications;

116 (c) Which communicates with, by any means, another entity
117 or individual; and

118 (d) Which contains a microphone designed to listen for and
119 respond to environmental cues.

120 (28) "Portable electronic communication device" means an
121 object capable of being easily transported or conveyed by a
122 person which is capable of creating, receiving, accessing,
123 processing, or storing electronic data or communications and
124 which communicates with, by any means, another device, entity,
125 or individual.

126 Section 5. Subsection (2) of section 934.03, Florida



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127 Statutes, is amended to read

128 934.03 Interception and disclosure of wire, oral, or
129 electronic communications prohibited.—

130 (2)(a)1. It is lawful under this section and ss. 934.04-
131 934.09 for an operator of a switchboard, or an officer,
132 employee, or agent of a provider of wire or electronic
133 communication service whose facilities are used in the
134 transmission of a wire or electronic communication, to
135 intercept, disclose, or use that communication in the normal
136 course of his or her employment while engaged in any activity
137 which is a necessary incident to the rendition of his or her
138 service or to the protection of the rights or property of the
139 provider of that service, except that a provider of wire
140 communication service to the public shall not utilize service
141 observing or random monitoring except for mechanical or service
142 quality control checks.

143 2. Notwithstanding any other law, a provider of wire, oral,
144 or electronic communication service, or an officer, employee, or
145 agent thereof, or landlord, custodian, or other person, may
146 provide information, facilities, or technical assistance to a
147 person authorized by law to intercept wire, oral, or electronic
148 communications if such provider, or an officer, employee, or
149 agent thereof, or landlord, custodian, or other person, has been
150 provided with:

151 ~~a. A court order directing such assistance signed by the~~
152 ~~authorizing judge; or~~

153 ~~a.b.~~ A certification in writing by a person specified in s.
154 934.09(7) that no search warrant or court order is required by
155 law, that all statutory requirements have been met, and that the



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156 specified assistance is required, setting forth the period of
157 time during which the provision of the information, facilities,
158 or technical assistance is authorized and specifying the
159 information, facilities, or technical assistance required; or

160 b. A search warrant issued by a judge of competent
161 jurisdiction as required by law.

162 3. A provider of wire, oral, or electronic communication
163 service, or an officer, employee, or agent thereof, or landlord,
164 custodian, or other person may not disclose the existence of any
165 interception or the device used to accomplish the interception
166 with respect to which the person has been served with a search
167 warrant ~~furnished an order under this section and ss. 934.04-~~
168 ~~934.09~~, except as may otherwise be required by legal process and
169 then only after prior notice to the Governor, the Attorney
170 General, the statewide prosecutor, or a state attorney, as may
171 be appropriate. Any such disclosure renders such person liable
172 for the civil damages provided under s. 934.10, and such person
173 may be prosecuted under s. 934.43. An action may not be brought
174 against any provider of wire, oral, or electronic communication
175 service, or an officer, employee, or agent thereof, or landlord,
176 custodian, or other person for providing information,
177 facilities, or assistance in accordance with the terms of a
178 search warrant ~~court order under this section and ss. 934.04-~~
179 ~~934.09~~.

180 (b) It is lawful under this section and ss. 934.04-934.09
181 for an officer, employee, or agent of the Federal Communications
182 Commission, in the normal course of his or her employment and in
183 discharge of the monitoring responsibilities exercised by the
184 commission in the enforcement of 47 U.S.C. chapter 5, to



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185 intercept a wire, oral, or electronic communication transmitted
186 by radio or to disclose or use the information thereby obtained.

187 (c) It is lawful under this section and ss. 934.04-934.09
188 for an investigative or law enforcement officer or a person
189 acting under the direction of an investigative or law
190 enforcement officer to intercept a wire, oral, or electronic
191 communication when such person is a party to the communication
192 or one of the parties to the communication has given prior
193 consent to such interception and the purpose of such
194 interception is to obtain evidence of a criminal act.

195 (d) It is lawful under this section and ss. 934.04-934.09
196 for a person to intercept a wire, oral, or electronic
197 communication when all of the parties to the communication have
198 given prior consent to such interception.

199 (e) It is unlawful to intercept any wire, oral, or
200 electronic communication for the purpose of committing any
201 criminal act.

202 (f) It is lawful under this section and ss. 934.04-934.09
203 for an employee of a telephone company to intercept a wire
204 communication for the sole purpose of tracing the origin of such
205 communication when the interception is requested by the
206 recipient of the communication and the recipient alleges that
207 the communication is obscene, harassing, or threatening in
208 nature. The individual conducting the interception shall notify
209 local police authorities within 48 hours after the time of the
210 interception.

211 (g) It is lawful under this section and ss. 934.04-934.09
212 for an employee of:

213 1. An ambulance service licensed pursuant to s. 401.25, a



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214 fire station employing firefighters as defined by s. 633.102, a
215 public utility, a law enforcement agency as defined by s.
216 934.02(10), or any other entity with published emergency
217 telephone numbers;

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

220 3. The central abuse hotline operated pursuant to s. 39.201

221
222 to intercept and record incoming wire communications; however,
223 such employee may intercept and record incoming wire
224 communications on designated "911" telephone numbers and
225 published nonemergency telephone numbers staffed by trained
226 dispatchers at public safety answering points only. It is also
227 lawful for such employee to intercept and record outgoing wire
228 communications to the numbers from which such incoming wire
229 communications were placed when necessary to obtain information
230 required to provide the emergency services being requested. For
231 the purpose of this paragraph, the term "public utility" has the
232 same meaning as provided in s. 366.02 and includes a person,
233 partnership, association, or corporation now or hereafter owning
234 or operating equipment or facilities in the state for conveying
235 or transmitting messages or communications by telephone or
236 telegraph to the public for compensation.

237 (h) It shall not be unlawful under this section and ss.
238 934.04-934.09 for any person:

239 1. To intercept or access an electronic communication made
240 through an electronic communication system that is configured so
241 that such electronic communication is readily accessible to the
242 general public.



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- 243 2. To intercept any radio communication which is
244 transmitted:
- 245 a. By any station for the use of the general public, or
246 that relates to ships, aircraft, vehicles, or persons in
247 distress;
- 248 b. By any governmental, law enforcement, civil defense,
249 private land mobile, or public safety communications system,
250 including any police or fire communications system, readily
251 accessible to the general public;
- 252 c. By a station operating on an authorized frequency within
253 the bands allocated to the amateur, citizens band, or general
254 mobile radio services; or
- 255 d. By any marine or aeronautical communications system.
- 256 3. To engage in any conduct which:
- 257 a. Is prohibited by s. 633 of the Communications Act of
258 1934; or
- 259 b. Is excepted from the application of s. 705(a) of the
260 Communications Act of 1934 by s. 705(b) of that act.
- 261 4. To intercept any wire or electronic communication the
262 transmission of which is causing harmful interference to any
263 lawfully operating station of consumer electronic equipment to
264 the extent necessary to identify the source of such
265 interference.
- 266 5. To intercept, if such person is another user of the same
267 frequency, any radio communication that is not scrambled or
268 encrypted made through a system that utilizes frequencies
269 monitored by individuals engaged in the provision or the use of
270 such system.
- 271 6. To intercept a satellite transmission that is not



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272 scrambled or encrypted and that is transmitted:

273 a. To a broadcasting station for purposes of retransmission
274 to the general public; or

275 b. As an audio subcarrier intended for redistribution to
276 facilities open to the public, but not including data
277 transmissions or telephone calls, when such interception is not
278 for the purposes of direct or indirect commercial advantage or
279 private financial gain.

280 7. To intercept and privately view a private satellite
281 video communication that is not scrambled or encrypted or to
282 intercept a radio communication that is transmitted on
283 frequencies allocated under subpart D of part 74 of the rules of
284 the Federal Communications Commission that is not scrambled or
285 encrypted, if such interception is not for a tortious or illegal
286 purpose or for purposes of direct or indirect commercial
287 advantage or private commercial gain.

288 (i) It shall not be unlawful under this section and ss.
289 934.04-934.09:

290 1. To use a pen register or a trap and trace device as
291 authorized under ss. 934.31-934.34 or under federal law; or

292 2. For a provider of electronic communication service to
293 record the fact that a wire or electronic communication was
294 initiated or completed in order to protect such provider,
295 another provider furnishing service toward the completion of the
296 wire or electronic communication, or a user of that service,
297 from fraudulent, unlawful, or abusive use of such service.

298 (j) It is not unlawful under this section and ss. 934.04-
299 934.09 for a person acting under color of law to intercept the
300 wire or electronic communications of a computer trespasser which



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301 are transmitted to, through, or from a protected computer if:

302 1. The owner or operator of the protected computer
303 authorizes the interception of the communications of the
304 computer trespasser;

305 2. The person acting under color of law is lawfully engaged
306 in an investigation;

307 3. The person acting under color of law has reasonable
308 grounds to believe that the contents of the communications of
309 the computer trespasser will be relevant to the investigation;
310 and

311 4. The interception does not acquire communications other
312 than those transmitted to, through, or from the computer
313 trespasser.

314 (k) It is lawful under this section and ss. 934.04-934.09
315 for a child under 18 years of age to intercept and record an
316 oral communication if the child is a party to the communication
317 and has reasonable grounds to believe that recording the
318 communication will capture a statement by another party to the
319 communication that the other party intends to commit, is
320 committing, or has committed an unlawful sexual act or an
321 unlawful act of physical force or violence against the child.

322 Section 6. Section 934.06, Florida Statutes, is amended to
323 read:

324 934.06 Prohibition of use as evidence of intercepted wire
325 or oral communications; content of cellular phone, microphone-
326 enabled household device, or portable electronic communication
327 device; exceptions.—Whenever any wire or oral communication has
328 been intercepted, or when the content of a cellular phone,
329 microphone-enabled household device, or portable electronic



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330 communication device is obtained without a search warrant
331 supported by probable cause no part of the contents of such
332 communication and no evidence derived therefrom may be received
333 in evidence in any trial, hearing, or other proceeding in or
334 before any court, grand jury, department, officer, agency,
335 regulatory body, legislative committee, or other authority of
336 the state, or a political subdivision thereof, if the disclosure
337 of that information would be in violation of this chapter. The
338 prohibition of use as evidence provided in this section does not
339 apply in cases of prosecution for criminal interception in
340 violation of the provisions of this chapter, or in cases where
341 the content of a cellular phone, microphone-enabled household
342 device, or portable electronic communication device is lawfully
343 obtained under circumstances where a search warrant is not
344 required.

345 Section 7. Subsections (1) and (2) of section 934.07,
346 Florida Statutes, are amended to read:

347 934.07 Authorization for interception of wire, oral, or
348 electronic communications.—

349 (1) The Governor, the Attorney General, the statewide
350 prosecutor, or any state attorney may authorize an application
351 to a judge of competent jurisdiction for, and such judge may
352 issue grant in conformity with ss. 934.03-934.09 a search
353 warrant as required by law ~~an order~~ authorizing or approving the
354 interception of, wire, oral, or electronic communications by:

355 (a) The Department of Law Enforcement or any law
356 enforcement agency as defined in s. 934.02 having responsibility
357 for the investigation of the offense as to which the application
358 is made when such interception may provide or has provided



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359 evidence of the commission of the offense of murder, kidnapping,
360 aircraft piracy, arson, gambling, robbery, burglary, theft,
361 dealing in stolen property, criminal usury, bribery, or
362 extortion; any felony violation of ss. 790.161-790.166,
363 inclusive; any violation of s. 787.06; any violation of chapter
364 893; any violation of the provisions of the Florida Anti-Fencing
365 Act; any violation of chapter 895; any violation of chapter 896;
366 any violation of chapter 815; any violation of chapter 847; any
367 violation of s. 827.071; any violation of s. 944.40; or any
368 conspiracy or solicitation to commit any violation of the laws
369 of this state relating to the crimes specifically enumerated in
370 this paragraph.

371 (b) The Department of Law Enforcement, together with other
372 assisting personnel as authorized and requested by the
373 department under s. 934.09(5), for the investigation of the
374 offense as to which the application is made when such
375 interception may provide or has provided evidence of the
376 commission of any offense that may be an act of terrorism or in
377 furtherance of an act of terrorism or evidence of any conspiracy
378 or solicitation to commit any such violation.

379 (2) (a) If, during the course of an interception of
380 communications by a law enforcement agency as authorized under
381 paragraph (1) (a), the law enforcement agency finds that the
382 intercepted communications may provide or have provided evidence
383 of the commission of any offense that may be an act of terrorism
384 or in furtherance of an act of terrorism, or evidence of any
385 conspiracy or solicitation to commit any such violation, the law
386 enforcement agency shall promptly notify the Department of Law
387 Enforcement and apprise the department of the contents of the



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388 intercepted communications. The agency notifying the department
389 may continue its previously authorized interception with
390 appropriate minimization, as applicable, and may otherwise
391 assist the department as provided in this section.

392 (b) Upon its receipt of information of the contents of an
393 intercepted communications from a law enforcement agency, the
394 Department of Law Enforcement shall promptly review the
395 information to determine whether the information relates to an
396 actual or anticipated act of terrorism as defined in this
397 section. If, after reviewing the contents of the intercepted
398 communications, there is probable cause that the contents of the
399 intercepted communications meet the criteria of paragraph
400 (1)(b), the Department of Law Enforcement may make application
401 for the interception of wire, oral, or electronic communications
402 consistent with paragraph (1)(b). The department may make an
403 independent new application for interception based on the
404 contents of the intercepted communications. Alternatively, the
405 department may request the law enforcement agency that provided
406 the information to join with the department in seeking a new
407 search warrant as required by law or an amendment of the
408 original interception search warrant order, or may seek
409 additional authority to continue intercepting communications
410 under the direction of the department. In carrying out its
411 duties under this section, the department may use the provisions
412 for an emergency interception provided in s. 934.09(7) if
413 applicable under statutory criteria.

414 Section 8. Section 934.09, Florida Statutes, is amended to
415 read:

416 934.09 Procedure for interception of wire, oral, or



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417 electronic communications.-

418 (1) Each application for a search warrant ~~an order~~
419 authorizing or approving the interception of a wire, oral, or
420 electronic communication under ss. 934.03-934.09 shall be made
421 in writing upon oath or affirmation to a judge of competent
422 jurisdiction and shall state the applicant's authority to make
423 such application. Each application shall include the following
424 information:

425 (a) The identity of the investigative or law enforcement
426 officer making the application and the officer authorizing the
427 application.

428 (b) A full and complete statement of the facts and
429 circumstances relied upon by the applicant to justify his or her
430 belief that a search warrant ~~an order~~ should be issued,
431 including:

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

434 2. Except as provided in subsection (11), a particular
435 description of the nature and location of the facilities from
436 which, or the place where, the communications are to be
437 intercepted.

438 3. A particular description of the type of communications
439 sought to be intercepted.

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

442 (c) A full and complete statement as to whether or not
443 other investigative procedures have been tried and failed or why
444 they reasonably appear to be unlikely to succeed if tried or to
445 be too dangerous.



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446 (d) A statement of the period of time for which the
447 interception is required to be maintained and, if the nature of
448 the investigation is such that the authorization for
449 interception should not automatically terminate when the
450 described type of communication has been first obtained, a
451 particular description of facts establishing probable cause to
452 believe that additional communications of the same type will
453 occur thereafter.

454 (e) A full and complete statement of the facts concerning
455 all previous applications known to the individual authorizing
456 and making the application, made to any judge for authorization
457 to intercept, or for approval of interceptions of, wire, oral,
458 or electronic communications involving any of the same persons,
459 facilities, or places specified in the application, and the
460 action taken by the judge on each such application.

461 (f) When the application is for the extension of a search
462 warrant ~~an order~~, a statement setting forth the results thus far
463 obtained from the interception or a reasonable explanation of
464 the failure to obtain such results.

465 (2) The judge may require the applicant to furnish
466 additional testimony or documentary evidence in support of the
467 application.

468 (3) Upon such application, the judge may authorize a search
469 warrant ~~enter an~~ ~~ex parte~~ ~~order~~, as requested or as modified,
470 authorizing or approving interception of wire, oral, or
471 electronic communications within the territorial jurisdiction of
472 the court in which the judge is sitting, and outside such
473 jurisdiction but within the State of Florida in the case of a
474 mobile interception device authorized by the judge within such



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475 jurisdiction, if the judge determines on the basis of the facts
476 submitted by the applicant that:

477 (a) There is probable cause for belief that an individual
478 is committing, has committed, or is about to commit an offense
479 as provided in s. 934.07.

480 (b) There is probable cause for belief that particular
481 communications concerning that offense will be obtained through
482 such interception.

483 (c) Normal investigative procedures have been tried and
484 have failed or reasonably appear to be unlikely to succeed if
485 tried or to be too dangerous.

486 (d) Except as provided in subsection (11), there is
487 probable cause for belief that the facilities from which, or the
488 place where, the wire, oral, or electronic communications are to
489 be intercepted are being used, or are about to be used, in
490 connection with the commission of such offense, or are leased
491 to, listed in the name of, or commonly used by such person.

492 (4) Each search warrant ~~order~~ authorizing or approving the
493 interception of any wire, oral, or electronic communication
494 shall specify:

495 (a) The identity of the person, if known, whose
496 communications are to be intercepted.

497 (b) The nature and location of the communications
498 facilities as to which, or the place where, authority to
499 intercept is granted.

500 (c) A particular description of the type of communication
501 sought to be intercepted and a statement of the particular
502 offense to which it relates.

503 (d) The identity of the agency authorized to intercept the



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504 communications and of the person authorizing the application.

505 (e) The period of time during which such interception is
506 authorized, including a statement as to whether or not the
507 interception shall automatically terminate when the described
508 communication has been first obtained.

509

510 A search warrant ~~An order~~ authorizing the interception of a
511 wire, oral, or electronic communication shall, upon the request
512 of the applicant, direct that a provider of wire or electronic
513 communication service, landlord, custodian, or other person
514 shall furnish the applicant forthwith all information,
515 facilities, and technical assistance necessary to accomplish the
516 interception unobtrusively and with a minimum of interference
517 with the services that such service provider, landlord,
518 custodian, or person is according the person whose
519 communications are to be intercepted. The obligation of a
520 provider of wire, oral, or electronic communication service
521 under such a search warrant ~~an order~~ may include, but is not
522 limited to, conducting an in-progress trace during an
523 interception, or providing other assistance to support the
524 investigation as may be specified in the search warrant ~~order~~.
525 Any provider of wire or electronic communication service,
526 landlord, custodian, or other person furnishing such facilities
527 or technical assistance shall be compensated therefor by the
528 applicant for reasonable expenses incurred in providing such
529 facilities or assistance.

530 (5) No search warrant ~~order~~ entered under this section may
531 authorize or approve the interception of any wire, oral, or
532 electronic communication for any period longer than is necessary



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533 to achieve the objective of the authorization or in any event
534 longer than 30 days. Such 30-day period begins on the day on
535 which the agent or officer of the law enforcement agency first
536 begins to conduct an interception under the search warrant ~~order~~
537 or 10 days after the search warrant is approved ~~order is~~
538 ~~entered~~, whichever occurs earlier. Extensions of a search
539 warrant ~~an order~~ may be granted but only upon application for an
540 extension made in accordance with subsection (1) and upon the
541 court making the findings required by subsection (3). The period
542 of extension shall be no longer than the authorizing judge deems
543 necessary to achieve the purposes for which it was granted and
544 in no event for longer than 30 days. Every search warrant ~~order~~
545 and extension thereof shall contain a provision that the
546 authorization to intercept shall be executed as soon as
547 practicable, shall be conducted in such a way as to minimize the
548 interception of communications not otherwise subject to
549 interception under ss. 934.03-934.09, and must terminate upon
550 attainment of the authorized objective or in any event in 30
551 days. If the intercepted communication is in code or foreign
552 language and an expert in that foreign language or code is not
553 reasonably available during the interception period,
554 minimization may be accomplished as soon as practicable after
555 such interception. An interception under ss. 934.03-934.09 may
556 be conducted in whole or in part by government personnel or by
557 an individual operating under a contract with the government,
558 acting under the supervision of an agent or officer of the law
559 enforcement agency authorized to conduct the interception.

560 (6) Whenever a search warrant ~~an order~~ authorizing
561 interception is granted ~~entered~~ pursuant to ss. 934.03-934.09,



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562 the search warrant ~~order~~ may require reports to be made to the
563 judge who issued the search warrant ~~order~~ showing what progress
564 has been made toward achievement of the authorized objective and
565 the need for continued interception. Such reports shall be made
566 at such intervals as the judge may require.

567 (7) Notwithstanding any other provision of this chapter,
568 any investigative or law enforcement officer specially
569 designated by the Governor, the Attorney General, the statewide
570 prosecutor, or a state attorney acting under this chapter, who
571 reasonably determines that:

572 (a) An emergency exists that:

573 1. Involves immediate danger of death or serious physical
574 injury to any person, the danger of escape of a prisoner, or
575 conspiratorial activities threatening the security interest of
576 the nation or state; and

577 2. Requires that a wire, oral, or electronic communication
578 be intercepted before a search warrant ~~an order~~ authorizing such
579 interception can, with due diligence, be obtained; and

580 (b) There are grounds upon which a search warrant ~~an order~~
581 could be entered under this chapter to authorize such
582 interception

583
584 may intercept such wire, oral, or electronic communication if an
585 application for a search warrant ~~an order~~ approving the
586 interception is made in accordance with this section within 48
587 hours after the interception has occurred or begins to occur. In
588 the absence of a search warrant ~~an order~~, such interception
589 shall immediately terminate when the communication sought is
590 obtained or when the application for the search warrant ~~order~~ is



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591 denied, whichever is earlier. If such application for approval
592 is denied, or in any other case in which the interception is
593 terminated without a search warrant ~~an order~~ having been issued,
594 the contents of any wire, oral, or electronic communication
595 intercepted shall be treated as having been obtained in
596 violation of s. 934.03(4), and an inventory shall be served as
597 provided for in paragraph (8)(e) on the person named in the
598 application.

599 (8)(a) The contents of any wire, oral, or electronic
600 communication intercepted by any means authorized by ss. 934.03-
601 934.09 shall, if possible, be recorded on tape or wire or other
602 comparable device. The recording of the contents of any wire,
603 oral, or electronic communication under this subsection shall be
604 kept in such a way as will protect the recording from editing or
605 other alterations. Immediately upon the expiration of the period
606 of the search warrant ~~order~~, or extensions thereof, such
607 recordings shall be made available to the judge approving the
608 search warrant ~~issuing such order~~ and sealed under his or her
609 directions. Custody of the recordings shall be wherever the
610 judge orders. They shall not be destroyed except upon an order
611 of the issuing or denying judge, or that judge's successor in
612 office, and in any event shall be kept for 10 years. Duplicate
613 recordings may be made for use or disclosure pursuant to the
614 provisions of s. 934.08(1) and (2) for investigations, or for
615 purposes of discovery as required by law.

616 (b) The presence of the seal provided for by this
617 subsection, or a satisfactory explanation for the absence
618 thereof, shall be a prerequisite for the use or disclosure of
619 the contents of any wire, oral, or electronic communication or



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620 evidence derived therefrom under s. 934.08(3), as required by
621 federal law.

622 (c) Applications made and search warrants ~~orders~~ granted
623 under ss. 934.03-934.09 shall be sealed by the judge. Custody of
624 the applications and search warrants ~~orders~~ shall be wherever
625 the judge directs. As required by ~~federal~~ law, such applications
626 and search warrants ~~orders~~ shall be disclosed only for purposes
627 of discovery or upon a showing of good cause before a judge of
628 competent jurisdiction and shall not be destroyed except on
629 order of the issuing or denying judge, or that judge's successor
630 in office, and in any event shall be kept for 10 years.

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

633 (e) Within a reasonable time but not later than 90 days
634 after the termination of the period of a search warrant ~~an order~~
635 or extensions thereof, the issuing or denying judge shall cause
636 to be served on the persons named in the search warrant ~~order~~ or
637 the application, and such other parties to intercepted
638 communications as the judge may determine in his or her
639 discretion to be in the interest of justice, an inventory which
640 shall include notice of:

641 1. The fact of the approval of the search warrant ~~entry of~~
642 ~~the order~~ or the application.

643 2. The date of the approval of the search warrant ~~entry~~ and
644 the period of authorized, approved, or disapproved interception,
645 or the denial of the application.

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

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649 The judge, upon the filing of a motion, may make available to
650 such person or the person's counsel for inspection such portions
651 of the intercepted communications, applications, and search
652 warrants ~~orders~~ as the judge determines to be in the interest of
653 justice. On an ex parte showing of good cause to a judge of
654 competent jurisdiction, the serving of the inventory required by
655 this paragraph may be postponed.

656 (9) ~~As required by federal law,~~ The contents of any
657 intercepted wire, oral, or electronic communication or evidence
658 derived therefrom shall not be received in evidence or otherwise
659 disclosed in any trial, hearing, or other proceeding unless each
660 party, not less than 10 days before the trial, hearing, or
661 proceeding, has been furnished with a copy of the search warrant
662 ~~court order~~ and accompanying application under which the
663 interception was authorized or approved. This 10-day period may
664 be waived by the judge if he or she finds that it was not
665 possible to furnish the party with the above information 10 days
666 before the trial, hearing, or proceeding and that the party will
667 not be prejudiced by the delay in receiving such information.

668 (10) (a) An ~~Any~~ aggrieved person before or in any trial,
669 hearing, or proceeding in or before any court, department,
670 officer, agency, regulatory body, or other authority may move to
671 suppress the contents of any intercepted wire, oral, or
672 electronic communication, or evidence derived therefrom, on the
673 grounds that:

- 674 1. The communication was unlawfully intercepted;
- 675 2. The search warrant ~~order of authorization or approval~~
676 under which it was intercepted is insufficient on its face; or
- 677 3. The interception was not made in conformity with the



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678 search warrant ~~order of authorization or approval.~~

679 (b) Except as otherwise provided in the applicable Florida
680 Rules of Criminal Procedure, in a criminal matter:

681 1. Such motion shall be made before the trial, hearing, or
682 proceeding unless there was no opportunity to make such motion
683 or the person was not aware of the grounds of the motion.

684 2. If the motion is granted, the contents of the
685 intercepted wire or oral communication, or evidence derived
686 therefrom, shall be treated as having been obtained in violation
687 of ss. 934.03-934.09 and are not admissible as evidence.

688 3. The judge, upon the filing of such motion by the
689 aggrieved person, may make available to the aggrieved person or
690 his or her counsel for inspection such portions of the
691 intercepted communication or evidence derived therefrom as the
692 judge determines to be in the interest of justice.

693 (c) ~~(b)~~ In addition to any other right to appeal, the state
694 shall have the right to appeal from an order granting a motion
695 to suppress made under paragraph (a) or the denial of an
696 application for a search warrant ~~an order of approval~~ if the
697 attorney shall certify to the judge or other official granting
698 such motion or denying such application that the appeal is not
699 taken for purposes of delay. Such appeal shall be taken within
700 30 days after the date the order was entered and shall be
701 diligently prosecuted.

702 (d) ~~(e)~~ The remedies and sanctions described in ss. 934.03-
703 934.10 with respect to the interception of electronic
704 communications are the only judicial remedies and sanctions for
705 violations of those sections involving such communications.

706 (11) The requirements of subparagraph (1)(b)2. and



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707 paragraph (3)(d) relating to the specification of the facilities
708 from which, or the place where, the communication is to be
709 intercepted do not apply if:

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

712 1. The application is by an agent or officer of a law
713 enforcement agency and is approved by the Governor, the Attorney
714 General, the statewide prosecutor, or a state attorney.

715 2. The application contains a full and complete statement
716 as to why such specification is not practical and identifies the
717 person committing the offense and whose communications are to be
718 intercepted.

719 3. The judge finds that such specification is not
720 practical.

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

723 1. The application is by an agent or officer of a law
724 enforcement agency and is approved by the Governor, the Attorney
725 General, the statewide prosecutor, or a state attorney.

726 2. The application identifies the person believed to be
727 committing the offense and whose communications are to be
728 intercepted and the applicant makes a showing that there is
729 probable cause to believe that the person's actions could have
730 the effect of thwarting interception from a specified facility
731 or that the person whose communications are to be intercepted
732 has removed, or is likely to remove, himself or herself to
733 another judicial circuit within the state.

734 3. The judge finds that such showing has been adequately
735 made.



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736 4. The search warrant ~~order~~ authorizing or approving the
737 interception is limited to interception only for such time as it
738 is reasonable to presume that the person identified in the
739 application is or was reasonably proximate to the instrument
740 through which such communication will be or was transmitted.

741
742 ~~Consistent with this paragraph, a judge of competent~~
743 ~~jurisdiction may authorize interception within this state,~~
744 ~~whether the interception is within or outside the court's~~
745 ~~jurisdiction, if the application for the interception makes a~~
746 ~~showing that some activity or conspiracy believed to be related~~
747 ~~to, or in furtherance of, the criminal predicate for the~~
748 ~~requested interception has occurred or will likely occur, or the~~
749 ~~communication to be intercepted or expected to be intercepted is~~
750 ~~occurring or will likely occur, in whole or in part, within the~~
751 ~~jurisdiction of the court where the order is being sought.~~

752 (12) If an interception of a communication is to be carried
753 out pursuant to subsection (11), such interception may not begin
754 until the facilities from which, or the place where, the
755 communication is to be intercepted is ascertained by the person
756 implementing the interception search warrant ~~order~~. A provider
757 of wire or electronic communications service that has received a
758 ~~an~~ search warrant ~~order~~ as provided under paragraph (11)(b) may
759 petition the court to modify or quash the search warrant ~~order~~
760 on the ground that the interception cannot be performed in a
761 timely or reasonable fashion. The court, upon notice to the
762 state, shall decide such a petition expeditiously.

763 (13) Consistent with this section, a judge of competent
764 jurisdiction may authorize interception within this state,



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765 whether the interception is within or outside the court's
766 jurisdiction, if the application for the interception makes a
767 showing that some activity or conspiracy believed to be related
768 to, or in furtherance of, the criminal predicate for the
769 requested interception has occurred or will likely occur, or the
770 communication to be intercepted or expected to be intercepted is
771 occurring or will likely occur, in whole or in part, within the
772 jurisdiction of the court where the search warrant is being
773 sought.

774 Section 9. Subsection (2) of section 934.10, Florida
775 Statutes, is amended, and subsection (1) of that section is
776 republished, to read:

777 934.10 Civil remedies.—

778 (1) Any person whose wire, oral, or electronic
779 communication is intercepted, disclosed, or used in violation of
780 ss. 934.03–934.09 shall have a civil cause of action against any
781 person or entity who intercepts, discloses, or uses, or procures
782 any other person or entity to intercept, disclose, or use, such
783 communications and shall be entitled to recover from any such
784 person or entity which engaged in that violation such relief as
785 may be appropriate, including:

786 (a) Preliminary or equitable or declaratory relief as may
787 be appropriate;

788 (b) Actual damages, but not less than liquidated damages
789 computed at the rate of \$100 a day for each day of violation or
790 \$1,000, whichever is higher;

791 (c) Punitive damages; and

792 (d) A reasonable attorney's fee and other litigation costs
793 reasonably incurred.



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794 (2) A good faith reliance on:
795 (a) A search warrant ~~court order, subpoena, or legislative~~
796 ~~authorization~~ as provided in ss. 934.03-934.09;;
797 (b) A request of an investigative or law enforcement
798 officer under s. 934.09(7);; or
799 (c) A good faith determination that Florida or federal law,
800 other than 18 U.S.C. s. 2511(2)(d), authorized ~~permitted~~ the
801 conduct complained of,
802
803 ~~shall~~ constitutes ~~constitute~~ a complete defense to any civil or
804 criminal, or administrative action arising out of such conduct
805 under the laws of this state.
806 Section 10. Section 934.21, Florida Statutes, is amended to
807 read:
808 934.21 Unlawful access to stored communications;
809 penalties.—
810 (1) Except as provided in subsection (3), whoever:
811 (a) Intentionally accesses without authorization a facility
812 through which an electronic communication service is provided,
813 or
814 (b) Intentionally exceeds an authorization to access such
815 facility,
816
817 and thereby obtains, alters, or prevents authorized access to a
818 wire or electronic communication while it is in electronic
819 storage in such system shall be punished as provided in
820 subsection (2).
821 (2) The punishment for an offense under subsection (1) is
822 as follows:



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823 (a) If the offense is committed for purposes of commercial
824 advantage, malicious destruction or damage, or private
825 commercial gain, the person ~~is~~:

826 1. In the case of a first offense under this subsection,
827 commits ~~guilty of~~ a misdemeanor of the first degree, punishable
828 as provided in s. 775.082, s. 775.083, or s. 934.41.

829 2. In the case of any subsequent offense under this
830 subsection, commits ~~guilty of~~ a felony of the third degree,
831 punishable as provided in s. 775.082, s. 775.083, s. 775.084, or
832 s. 934.41.

833 (b) In any other case, the person commits ~~is guilty of~~ a
834 misdemeanor of the second degree, punishable as provided in s.
835 775.082 or s. 775.083.

836 (3) Subsection (1) does not apply with respect to conduct
837 authorized:

838 (a) By the person or entity providing a wire, oral, or
839 electronic communications service, including through cellular
840 phones, microphone-enabled household devices, or portable
841 electronic communication devices;

842 (b) By a user of a wire, oral, or electronic communications
843 service, including through cellular phones, microphone-enabled
844 household devices, or portable electronic communication devices,
845 with respect to a communication of or intended for that user; ~~or~~

846 (c) In s. 934.09, s. 934.23, or s. 934.24;

847 (d) In chapter 933; or

848 (e) For accessing for a legitimate business purpose
849 information that is not personally identifiable or that has been
850 collected in a way that prevents identification of the user of
851 the device.



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852 Section 11. Section 934.42, Florida Statutes, is amended to
853 read:

854 934.42 Mobile tracking device and location tracking
855 authorization.—

856 (1) As used in this section, the term:

857 (a) "Mobile tracking device" means an electronic or
858 mechanical device that permits the tracking of the movement of a
859 person or an object.

860 (b) "Real-time location tracking" means:

861 1. Installation and use of a mobile tracking device on the
862 object to be tracked;

863 2. Acquisition of real-time cell-site location data; or

864 3. Acquisition of real-time precise global positioning
865 system location data.

866 (c) "Historical location data" means historical precise
867 global positioning system location data in the possession of a
868 provider.

869 (2) ~~(1)~~ An investigative or law enforcement officer may make
870 application to a judge of competent jurisdiction for a search
871 warrant ~~an order~~ authorizing or approving real-time location
872 tracking or the acquisition of historical location data in the
873 possession of the provider ~~the installation and use of a mobile~~
874 tracking device.

875 (3) ~~(2)~~ An application under subsection (2) ~~(1)~~ of this
876 section must include:

877 (a) A statement of the identity of the applicant and the
878 identity of the law enforcement agency conducting the
879 investigation.

880 (b) A statement setting forth a reasonable period of time



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881 that the mobile tracking device may be used or the location data
882 may be obtained in real time, not to exceed 45 days from the
883 date the search warrant is issued. The court may, for good
884 cause, grant one or more extensions for a reasonable period of
885 time, not to exceed 45 days each. When seeking historical
886 location data, the applicant must specify a date range for the
887 data sought ~~certification by the applicant that the information~~
888 ~~likely to be obtained is relevant to an ongoing criminal~~
889 ~~investigation being conducted by the investigating agency.~~

890 (c) A statement of the offense to which the information
891 likely to be obtained relates.

892 (d) A statement as to whether it may be necessary to use
893 and monitor the mobile tracking device outside the jurisdiction
894 of the court from which authorization is being sought.

895 ~~(4) (3)~~ Upon application made as provided under subsection
896 ~~(3) (2)~~, the court, if it finds probable cause ~~that the~~
897 ~~certification~~ and finds that the statements required by
898 subsection ~~(3) (2)~~ have been made in the application, must grant
899 a search warrant ~~shall enter an ex parte order~~ authorizing real-
900 time location tracking ~~the installation and use of a mobile~~
901 ~~tracking device~~ or the acquisition of historical location data.
902 Such search warrant ~~order~~ may authorize the location tracking
903 ~~use of the device~~ within the jurisdiction of the court and
904 outside that jurisdiction but within the State of Florida if the
905 location tracking device is initiated ~~installed~~ within the
906 jurisdiction of the court. The search warrant must command the
907 investigative or law enforcement officer to complete any
908 initiation of the location tracking or execution of the search
909 warrant for historical location data authorized by the search



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910 warrant within a specified period of time not to exceed 10
911 calendar days.

912 (5)~~(4)~~ A court may not require greater specificity or
913 additional information beyond that which is required by law and
914 this section as a requisite for issuing a search warrant ~~an~~
915 order.

916 (6) Within 10 days after the time period specified in
917 paragraph (3)(b) has ended, the investigative or law enforcement
918 officer executing a search warrant must return the search
919 warrant to the issuing judge. When the search warrant is
920 authorizing the acquisition of historical location data, the
921 investigative or law enforcement officer executing the search
922 warrant must return the search warrant to the issuing judge
923 within 10 days after receipt of the records. The investigative
924 or law enforcement officer may do so by reliable electronic
925 means.

926 (7) Within 10 days after the time period specified in
927 paragraph (3)(b) has ended, the investigative or law enforcement
928 officer executing a search warrant must serve a copy of the
929 search warrant on the person who, or whose property, was
930 tracked. When the search warrant is authorizing the acquisition
931 of historical location data, the investigative or law
932 enforcement officer executing the search warrant must serve a
933 copy of the search warrant on the person whose data was obtained
934 within 10 days after receipt of the records. Service may be
935 accomplished by delivering a copy to the person who, or whose
936 property, was tracked or data obtained or by leaving a copy at
937 the person's residence or usual place of abode with an
938 individual of suitable age and discretion who resides at that



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939 location and by mailing a copy to the person's last known
940 address. Upon a showing of good cause to a court of competent
941 jurisdiction, the court may grant one or more postponements of
942 this notice for a period of 90 days each.

943 (8) ~~(5)~~ The standards established by Florida courts and the
944 United States Supreme Court for the installation, use, or ~~and~~
945 monitoring of mobile tracking devices and the acquisition of
946 location data shall apply to the installation, use, or
947 monitoring ~~and use~~ of any device and the acquisition of location
948 data as authorized by this section.

949 ~~(6) As used in this section, a "tracking device" means an~~
950 ~~electronic or mechanical device which permits the tracking of~~
951 ~~the movement of a person or object.~~

952 (9) (a) Notwithstanding any other provision of this chapter,
953 any investigative or law enforcement officer specially
954 designated by the Governor, the Attorney General, the statewide
955 prosecutor, or a state attorney acting pursuant to this chapter
956 who reasonably determines that:

957 1. An emergency exists which:

958 a. Involves immediate danger of death or serious physical
959 injury to any person or the danger of escape of a prisoner; and

960 b. Requires real-time location tracking before a search
961 warrant authorizing such tracking can, with due diligence, be
962 obtained; and

963 2. There are grounds upon which a search warrant could be
964 issued under this chapter to authorize such tracking,

965
966 may engage in real-time location tracking if, within 48 hours
967 after the tracking has occurred or begins to occur, a search



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968 warrant approving the tracking is issued in accordance with this
969 section.

970 (b) In the absence of an authorizing search warrant, such
971 tracking must immediately terminate when the information sought
972 is obtained, when the application for the search warrant is
973 denied, or when 48 hours have lapsed since the tracking began,
974 whichever is earlier.

975 Section 12. For the purpose of incorporating the amendments
976 made by this act to sections 934.03 and 934.07, Florida
977 Statutes, in a reference thereto, paragraph (b) of subsection
978 (2) of section 934.22, Florida Statutes, is reenacted to read:

979 934.22 Voluntary disclosure of customer communications or
980 records.—

981 (2) A provider described in subsection (1) may divulge the
982 contents of a communication:

983 (b) As otherwise authorized in s. 934.03(2)(a), s. 934.07,
984 or s. 934.23.

985 Section 13. For the purpose of incorporating the amendments
986 made by this act to sections 934.09 and 934.21, Florida
987 Statutes, in references thereto, subsections (1) and (4) of
988 section 934.27, Florida Statutes, are reenacted to read:

989 934.27 Civil action: relief; damages; defenses.—

990 (1) Except as provided in s. 934.23(5), any provider of
991 electronic communication service, or subscriber or customer
992 thereof, aggrieved by any violation of ss. 934.21-934.28 in
993 which the conduct constituting the violation is engaged in with
994 a knowing or intentional state of mind may, in a civil action,
995 recover from the person or entity which engaged in that
996 violation such relief as is appropriate.



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

1000 (a) A court warrant or order, a subpoena, or a statutory
1001 authorization, including, but not limited to, a request of an
1002 investigative or law enforcement officer to preserve records or
1003 other evidence, as provided in s. 934.23(7).

1004 (b) A request of an investigative or law enforcement
1005 officer under s. 934.09(7).

1006 (c) A good faith determination that s. 934.03(3) permitted
1007 the conduct complained of.

1008 Section 14. For the purpose of incorporating the amendment
1009 made by this act to section 934.21, Florida Statutes, in a
1010 reference thereto, subsection (6) of section 934.23, Florida
1011 Statutes, is reenacted to read:

1012 934.23 Required disclosure of customer communications or
1013 records.—

1014 (6) No cause of action shall lie in any court against any
1015 provider of wire or electronic communication service, its
1016 officers, employees, agents, or other specified persons for
1017 providing information, facilities, or assistance in accordance
1018 with the terms of a court order, warrant, subpoena, or
1019 certification under ss. 934.21-934.28.

1020 Section 15. For the purpose of incorporating the amendment
1021 made by this act to section 934.21, Florida Statutes, in
1022 references thereto, subsections (6) and (7) of section 934.24,
1023 Florida Statutes, are reenacted to read:

1024 934.24 Backup preservation; customer notification;
1025 challenges by customer.—



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1026 (6) Within 14 days after notice by the investigative or law
1027 enforcement officer to the subscriber or customer under
1028 subsection (2), the subscriber or customer may file a motion to
1029 quash the subpoena or vacate the court order seeking contents of
1030 electronic communications, with copies served upon the
1031 investigative or law enforcement officer and with written notice
1032 of such challenge to the service provider. A motion to vacate a
1033 court order must be filed in the court which issued the order. A
1034 motion to quash a subpoena must be filed in the circuit court in
1035 the circuit from which the subpoena issued. Such motion or
1036 application must contain an affidavit or sworn statement:

1037 (a) Stating that the applicant is a subscriber or customer
1038 of the service from which the contents of electronic
1039 communications maintained for her or him have been sought, and

1040 (b) Stating the applicant's reasons for believing that the
1041 records sought are not relevant to a legitimate law enforcement
1042 inquiry or that there has not been substantial compliance with
1043 the provisions of ss. 934.21-934.28 in some other respect.

1044 (7) Except as otherwise obtained under paragraph (3) (a),
1045 service must be made under this section upon an investigative or
1046 law enforcement officer by delivering or mailing by registered
1047 or certified mail a copy of the papers to the person, office, or
1048 department specified in the notice which the subscriber or
1049 customer has received pursuant to ss. 934.21-934.28. For the
1050 purposes of this subsection, the term "delivering" shall be
1051 construed in accordance with the definition of "delivery" as
1052 provided in Rule 1.080, Florida Rules of Civil Procedure.

1053 Section 16. For the purpose of incorporating the amendment
1054 made by this act to section 934.21, Florida Statutes, in a



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1055 reference thereto, subsection (5) of section 934.25, Florida
1056 Statutes, is reenacted to read:

1057 934.25 Delayed notice.—

1058 (5) Upon the expiration of the period of delay of
1059 notification under subsection (1) or subsection (4), the
1060 investigative or law enforcement officer must serve upon or
1061 deliver by registered or first-class mail to the subscriber or
1062 customer a copy of the process or request together with notice
1063 which:

1064 (a) States with reasonable specificity the nature of the
1065 law enforcement inquiry, and

1066 (b) Informs the subscriber or customer:

1067 1. That information maintained for such subscriber or
1068 customer by the service provider named in the process or request
1069 was supplied to or requested by the investigative or law
1070 enforcement officer and the date on which such information was
1071 so supplied or requested.

1072 2. That notification of such subscriber or customer was
1073 delayed.

1074 3. What investigative or law enforcement officer or what
1075 court made the certification or determination pursuant to which
1076 that delay was made.

1077 4. Which provision of ss. 934.21-934.28 allowed such delay.

1078 Section 17. For the purpose of incorporating the amendment
1079 made by this act to section 934.21, Florida Statutes, in a
1080 reference thereto, section 934.28, Florida Statutes, is
1081 reenacted to read:

1082 934.28 Exclusivity of remedies and sanctions.—The remedies
1083 and sanctions described in ss. 934.21-934.27 are the only



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1084 judicial remedies and sanctions for violation of those sections.

1085 Section 18. This act shall take effect July 1, 2019.

1086

1087 ===== T I T L E A M E N D M E N T =====

1088 And the title is amended as follows:

1089 Delete everything before the enacting clause

1090 and insert:

1091 A bill to be entitled

1092 An act relating to searches of cellular phones and

1093 other electronic devices; amending s. 933.02, F.S.;

1094 expanding the grounds for issuance of a search

1095 warrant; providing that content held within a cellular

1096 phone, microphone-enabled household device, or

1097 portable electronic communication device may

1098 constitute evidence relevant to proving that a felony

1099 has been committed; amending s. 933.04, F.S.; adopting

1100 the constitutional protection against unreasonable

1101 interception of private communications by any means

1102 for purposes of obtaining a search warrant; amending

1103 s. 934.01, F.S.; revising and providing legislative

1104 findings; amending s. 934.02, F.S.; redefining the

1105 term "oral communication"; defining the terms

1106 "microphone-enabled household device" and "portable

1107 electronic communication device"; amending s. 934.03,

1108 F.S.; authorizing specified persons to provide

1109 information, facilities, or technical assistance to a

1110 person authorized by law to intercept wire, oral, or

1111 electronic communications if the person has been

1112 provided with a search warrant; prohibiting specified



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1113 persons from disclosing the existence of any
1114 interception of a wire, oral, or electronic
1115 communication with respect to which the person has
1116 been served with a search warrant; amending s. 934.06,
1117 F.S.; to requiring a search warrant to obtain certain
1118 communication content; amending s. 934.07, F.S.;
1119 authorizing a judge to issue, instead of granting, a
1120 search warrant in conformity with specified
1121 provisions; authorizing the Department of Law
1122 Enforcement to request a law enforcement agency that
1123 provided it with certain information to join with the
1124 department in seeking a new search warrant; amending
1125 s. 934.08, F.S.; authorizing certain disclosure or use
1126 when an investigative or law enforcement officer
1127 intercepts wire, oral, or electronic communications
1128 relating to offenses other than those specified in a
1129 search warrant; amending s. 934.09, F.S.; requiring
1130 that each application for a search warrant, rather
1131 than an order, authorizing or approving the
1132 interception of wire, oral, or electronic
1133 communications be made in writing and state the
1134 applicant's authority; authorizing a judge to
1135 authorize a search warrant ex parte, rather than an ex
1136 parte order, based on the application under certain
1137 circumstances; specifying requirements for search
1138 warrants, rather than orders, issued under certain
1139 circumstances; authorizing an aggrieved person to move
1140 to suppress the contents of certain wire, oral, or
1141 electronic communications before, as well as during, a



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1142 trial, hearing, or proceeding; providing for
1143 inadmissibility of certain evidence if a certain
1144 motion is granted; authorizing a judge of competent
1145 jurisdiction to authorize interception within this
1146 state under specified circumstances; amending s.
1147 934.10, F.S.; providing that a good faith reliance on
1148 a search warrant issued under certain provisions
1149 constitutes a complete defense against specified
1150 actions; amending s. 934.21, F.S.; revising the
1151 exceptions to conduct that constitutes unlawful access
1152 to stored communications; conforming a provision to
1153 changes made by the act; amending s. 934.42, F.S.;
1154 defining the terms "mobile tracking device," "real-
1155 time location tracking," and "historical location
1156 data"; authorizing an investigative or law enforcement
1157 officer to apply to a judge of competent jurisdiction
1158 for a search warrant, rather than an order,
1159 authorizing real-time location tracking or acquisition
1160 of historical location data; requiring an application
1161 for a search warrant to include a statement of a
1162 reasonable period of time that the mobile tracking
1163 device may be used or the location data may be
1164 obtained in real time, not to exceed a specified
1165 limit; authorizing a court to grant extensions that do
1166 not individually exceed a specified limit, for good
1167 cause; deleting a provision requiring a certification
1168 to be included in the application; providing that the
1169 court, if it finds probable cause and finds the
1170 required statements in the application, must grant a



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1171 search warrant; specifying the search warrant may
1172 authorize real-time location tracking or acquisition
1173 of historical location data; providing the search
1174 warrant may authorize the tracking as specified;
1175 requiring the search warrant to command the officer to
1176 complete any initiation of the location tracking
1177 authorized by the search warrant within a certain
1178 timeframe; providing requirements for the return of
1179 the search warrant to the judge and service of a copy
1180 of the search warrant on the person who was tracked or
1181 whose property was tracked; specifying how a search
1182 warrant authorizing the acquisition of historical
1183 location data must be returned and served; authorizing
1184 a court, for good cause, to postpone the notice
1185 requirement for a specified time period; requiring
1186 that the standards established by Florida courts for
1187 the installation, use, or monitoring of mobile
1188 tracking devices and the acquisition of location data
1189 apply to the installation, use, or monitoring of any
1190 devices and the acquisition of location data as
1191 authorized; deleting the definition of "tracking
1192 device"; authorizing any investigative or law
1193 enforcement officer who is specially designated by
1194 certain persons and who makes specified determinations
1195 to engage in real-time location tracking if a search
1196 warrant is later obtained as specified; providing
1197 requirements for engaging in real-time location
1198 tracking; specifying when real-time location tracking
1199 must terminate; reenacting s. 934.22(2)(b), F.S.,



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1200 relating to voluntary disclosure of customer
1201 communications or records, to incorporate the
1202 amendments made to ss. 934.03 and 934.07, F.S., in
1203 references thereto; reenacting s. 934.27(1) and (4),
1204 F.S., relating to relief, damages, and defenses for
1205 certain civil actions, to incorporate the amendments
1206 made to ss. 934.09 and 934.21, F.S., in references
1207 thereto; reenacting ss. 934.23(6), 934.24(6) and (7),
1208 934.25(5), and 934.28, F.S., relating to required
1209 disclosures of customer communications or records, a
1210 subscriber or customer filing a motion for certain
1211 relief and customer notification, delayed notice, and
1212 the exclusivity of remedies and sanctions for certain
1213 violations, respectively, to incorporate the amendment
1214 made to s. 934.21, F.S., in references thereto;
1215 providing an effective date.