

1                   A bill to be entitled  
2           An act relating to searches of cellular phones and  
3           other electronic devices; amending s. 933.02, F.S.;  
4           expanding the grounds for issuance of a search warrant  
5           to include content held within a cellular phone,  
6           portable electronic communication device, or  
7           microphone-enabled household device when such content  
8           constitutes evidence relevant to proving that a felony  
9           has been committed; amending s. 933.04, F.S.; adopting  
10          the constitutional protection against unreasonable  
11          interception of private communications by any means  
12          for purposes of obtaining a search warrant; amending  
13          s. 934.01, F.S.; revising and providing legislative  
14          findings; amending s. 934.02, F.S.; redefining the  
15          term "oral communication"; defining the terms  
16          "microphone-enabled household device" and "portable  
17          electronic communication device"; amending s. 934.03,  
18          F.S.; authorizing specified persons to provide  
19          information, facilities, or technical assistance to a  
20          person authorized by law to intercept wire, oral, or  
21          electronic communications if such person has been  
22          provided with a search warrant issued by a court of  
23          competent jurisdiction; prohibiting specified persons  
24          from disclosing the existence of any interception of a  
25          wire, oral, or electronic communication with respect

26 | to which the person has been served with a search  
27 | warrant, rather than a court order; amending s.  
28 | 934.06, F.S.; prohibiting the use of certain  
29 | communication content in any trial, hearing or other  
30 | proceeding which was obtained without a specified  
31 | warrant; providing an exception; amending s. 934.07,  
32 | F.S.; authorizing a judge to issue a search warrant,  
33 | rather than grant a court order, in conformity with  
34 | specified provisions; authorizing the Department of  
35 | Law Enforcement to request a law enforcement agency  
36 | that provided certain information to join the  
37 | department in seeking a new search warrant; amending  
38 | s. 934.09, F.S.; requiring that each application for a  
39 | search warrant, rather than an order, authorizing or  
40 | approving the interception of wire, oral, or  
41 | electronic communications be made in writing and state  
42 | the applicant's authority; authorizing a judge to  
43 | authorize a search warrant ex parte, rather than an ex  
44 | parte order, based on the application under certain  
45 | circumstances; specifying requirements for search  
46 | warrants, rather than orders, issued under certain  
47 | circumstances; authorizing an aggrieved person to move  
48 | to suppress the contents of certain wire, oral, or  
49 | electronic communications before, as well as during, a  
50 | trial, hearing, or proceeding; providing for

51 inadmissibility of certain evidence if a certain  
52 motion is granted; authorizing a judge of competent  
53 jurisdiction to authorize interception of wire, oral,  
54 or electronic communications within this state under  
55 specified circumstances; amending s. 934.10, F.S.;  
56 providing that a good faith reliance on a search  
57 warrant, rather than a court order, subpoena, or  
58 legislative authorization, issued under certain  
59 provisions constitutes a complete defense against  
60 specified actions; amending s. 934.21, F.S.; revising  
61 the exceptions to conduct that constitutes unlawful  
62 access to stored communications; conforming a  
63 provision to changes made by the act; amending s.  
64 934.42, F.S.; defining the terms "mobile tracking  
65 device," "real-time location tracking," and  
66 "historical location data"; authorizing an  
67 investigative or law enforcement officer to apply to a  
68 judge of competent jurisdiction for a search warrant,  
69 rather than an order, authorizing real-time location  
70 tracking or acquisition of historical location data;  
71 requiring an application for a search warrant to  
72 include a statement setting forth a reasonable period  
73 of time the mobile tracking device may be used or the  
74 location data may be obtained in real time, not to  
75 exceed a specified limit; authorizing a court to grant

76 extensions, for good cause, that do not individually  
77 exceed a specified limit; requiring an applicant  
78 seeking historical location data to specify a date  
79 range for the data sought; deleting a provision  
80 requiring a certification to be included in the  
81 application; requiring the court, if it finds probable  
82 cause and that the application contains the required  
83 statements, to grant a search warrant; specifying that  
84 the search warrant may authorize real-time location  
85 tracking or acquisition of historical location data;  
86 providing that the search warrant may authorize the  
87 tracking as specified; requiring the search warrant to  
88 command the investigative or law enforcement officer  
89 to complete any initiation of the location tracking or  
90 execution of the search warrant for historical  
91 location data authorized by the search warrant within  
92 a certain timeframe; providing requirements for the  
93 return of the search warrant to the judge and for  
94 service of a copy of the search warrant on the person  
95 who was tracked or whose property was tracked;  
96 providing requirements for returning and serving a  
97 search warrant authorizing the acquisition of  
98 historical location data; authorizing a court, for  
99 good cause, to postpone the notice requirement for a  
100 specified time period; requiring that the standards

101 established by Florida courts for the installation,  
102 use, or monitoring of mobile tracking devices and the  
103 acquisition of location data apply to the  
104 installation, use, or monitoring of any devices and  
105 the acquisition of location data as authorized by  
106 certain provisions; deleting the definition of  
107 "tracking device"; authorizing any investigative or  
108 law enforcement officer who is specially designated by  
109 certain persons and who makes specified determinations  
110 to engage in real-time location tracking if a search  
111 warrant is obtained, as specified, after the tracking  
112 has occurred or begins to occur; providing  
113 requirements for engaging in real-time location  
114 tracking; specifying when real-time location tracking  
115 must terminate; reenacting s. 934.22(2)(b), F.S.,  
116 relating to voluntary disclosure of customer  
117 communications or records, to incorporate the  
118 amendments made to ss. 934.03 and 934.07, F.S., in  
119 references thereto; reenacting s. 934.27(1) and (4),  
120 F.S., relating to relief, damages, and defenses for  
121 certain civil actions, to incorporate the amendments  
122 made to ss. 934.09 and 934.21, F.S., in references  
123 thereto; reenacting ss. 934.23(6), 934.24(6) and (7),  
124 934.25(5), and 934.28, F.S., relating to required  
125 disclosures of customer communications or records, a

126 subscriber or customer filing a motion for certain  
 127 relief and customer notification, delayed notice, and  
 128 the exclusivity of remedies and sanctions for certain  
 129 violations, respectively, to incorporate the amendment  
 130 made to s. 934.21, F.S., in references thereto;  
 131 providing an effective date.

132

133 Be It Enacted by the Legislature of the State of Florida:

134

135 Section 1. Section 933.02, Florida Statutes, is amended to  
 136 read:

137 933.02 Grounds for issuance of search warrant.—Upon proper  
 138 affidavits being made, a search warrant may be issued under the  
 139 provisions of this chapter upon any of the following grounds:

140 (1) When the property shall have been stolen or embezzled  
 141 in violation of law.~~†~~

142 (2) When any property shall have been used:

143 (a) As a means to commit any crime;

144 (b) In connection with gambling, gambling implements and  
 145 appliances; or

146 (c) In violation of s. 847.011 or other laws in reference  
 147 to obscene prints and literature.~~†~~

148 (3) When any property, or when content held within a  
 149 cellular phone, a portable electronic communication device as  
 150 defined in s. 934.02, or a microphone-enabled household device

151 as defined in s. 934.02, constitutes evidence relevant to  
152 proving that a felony has been committed.~~†~~

153 (4) When any property is being held or possessed:

154 (a) In violation of any of the laws prohibiting the  
155 manufacture, sale, and transportation of intoxicating liquors;

156 (b) In violation of the fish and game laws;

157 (c) In violation of the laws relative to food and drug; or

158 (d) In violation of the laws relative to citrus disease  
159 pursuant to s. 581.184.~~†~~~~or~~

160 (5) When the laws in relation to cruelty to animals, as  
161 provided in chapter 828, have been or are violated in any  
162 particular building or place.

163  
164 This section also applies to any papers or documents used as a  
165 means of or in aid of the commission of any offense against the  
166 laws of the state.

167 Section 2. Section 933.04, Florida Statutes, is amended to  
168 read:

169 933.04 Affidavits.—The right of the people to be secure in  
170 their persons, houses, papers and effects against unreasonable  
171 seizures and searches and against the unreasonable interception  
172 of private communications by any means shall not be violated and  
173 no search warrant shall be issued except upon probable cause,  
174 supported by oath or affirmation particularly describing the  
175 place to be searched and the person and thing to be seized.

176 Section 3. Section 934.01, Florida Statutes, is amended to  
177 read:

178 934.01 Legislative findings.—On the basis of its own  
179 investigations and of published studies, the Legislature makes  
180 the following findings:

181 (1) Wire communications are normally conducted through the  
182 use of facilities which form part of an intrastate network. The  
183 same facilities are used for interstate and intrastate  
184 communications.

185 (2) In order to protect effectively the privacy of wire,  
186 ~~and oral,~~ and electronic communications, to protect the  
187 integrity of court and administrative proceedings, and to  
188 prevent the obstruction of intrastate commerce, it is necessary  
189 for the Legislature to define the circumstances and conditions  
190 under which the interception of wire, ~~and oral,~~ and electronic  
191 communications may be authorized and to prohibit any  
192 unauthorized interception of such communications and the use of  
193 the contents thereof in evidence in courts and administrative  
194 proceedings.

195 (3) Organized criminals make extensive use of wire, ~~and~~  
196 oral, and electronic communications in their criminal  
197 activities. The interception of such communications to obtain  
198 evidence of the commission of crimes or to prevent their  
199 commission is an indispensable aid to law enforcement and the  
200 administration of justice.



201 (4) To safeguard the privacy of innocent persons, the  
202 interception of wire, ~~or~~ oral, or electronic communications when  
203 none of the parties to the communication has consented to the  
204 interception should be allowed only when authorized by a court  
205 of competent jurisdiction and should remain under the control  
206 and supervision of the authorizing court. Interception of wire,  
207 ~~and~~ oral, and electronic communications should further be  
208 limited to certain major types of offenses and specific  
209 categories of crime with assurance that the interception is  
210 justified and that the information obtained thereby will not be  
211 misused.

212 (5) To safeguard the privacy of innocent persons, the  
213 Legislature recognizes the subjective expectation of privacy in  
214 real-time cell-site location data, real-time precise global  
215 positioning system location data, and historical precise global  
216 positioning system location data which society is now prepared  
217 to accept is objectively reasonable. As such, the law  
218 enforcement collection of the precise location of a person,  
219 cellular phone, or portable electronic communication device  
220 without the consent of the person or owner of the cellular phone  
221 or portable electronic communication device should be allowed  
222 only when authorized by a search warrant issued by a court of  
223 competent jurisdiction and should remain under the control and  
224 supervision of the authorizing court.

225 (6) The Legislature recognizes the use of portable

226 electronic communication devices is growing at a rapidly  
227 increasing rate. These devices can store, and encourage the  
228 storing of, an almost limitless amount of personal and private  
229 information. Often linked to the Internet, these devices are  
230 commonly used to access personal and business information and  
231 databases in computers and servers that can be located anywhere  
232 in the world. The user of a portable electronic communication  
233 device has a reasonable and justifiable expectation of privacy  
234 in the information that these devices contain.

235 (7) The Legislature recognizes the use of household  
236 electronic devices, including microphone-enabled household  
237 devices, is growing rapidly. These devices often contain  
238 microphones that listen for and respond to environmental cues.  
239 These household devices are generally connected to and  
240 communicate through the Internet, resulting in the storage of  
241 and accessibility to daily household information in the device  
242 itself or in a remote computing service. Persons should not have  
243 to choose between using household technological enhancements and  
244 conveniences or preserving the right to privacy in their own  
245 homes.

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

249 934.02 Definitions.—As used in this chapter:

250 (2) "Oral communication" means any oral communication

251 | uttered by a person exhibiting an expectation that such  
252 | communication is not subject to interception under circumstances  
253 | justifying such expectation, including the use of a microphone-  
254 | enabled household device, and does not mean any public oral  
255 | communication uttered at a public meeting or any electronic  
256 | communication.

257 | (27) "Microphone-enabled household device" means a device,  
258 | sensor, or other physical object within a residence which:

259 | (a) Is capable of connecting to the Internet, directly or  
260 | indirectly, or to another connected device;

261 | (b) Is capable of creating, receiving, accessing,  
262 | processing, or storing electronic data or communications;

263 | (c) Communicates with, by any means, another entity or  
264 | individual; and

265 | (d) Contains a microphone designed to listen for and  
266 | respond to environmental cues.

267 | (28) "Portable electronic communication device" means an  
268 | object that may be easily transported or conveyed by a person;  
269 | is capable of creating, receiving, accessing, processing, or  
270 | storing electronic data or communications; and communicates  
271 | with, by any means, another device, entity, or individual.

272 | Section 5. Subsection (2) of section 934.03, Florida  
273 | Statutes, is amended to read:

274 | 934.03 Interception and disclosure of wire, oral, or  
275 | electronic communications prohibited.-

276 (2) (a) 1. It is lawful under this section and ss. 934.04-  
277 934.09 for an operator of a switchboard, or an officer,  
278 employee, or agent of a provider of wire or electronic  
279 communication service whose facilities are used in the  
280 transmission of a wire or electronic communication, to  
281 intercept, disclose, or use that communication in the normal  
282 course of his or her employment while engaged in any activity  
283 which is a necessary incident to the rendition of his or her  
284 service or to the protection of the rights or property of the  
285 provider of that service, except that a provider of wire  
286 communication service to the public shall not utilize service  
287 observing or random monitoring except for mechanical or service  
288 quality control checks.

289 2. Notwithstanding any other law, a provider of wire,  
290 oral, or electronic communication service, or an officer,  
291 employee, or agent thereof, or landlord, custodian, or other  
292 person, may provide information, facilities, or technical  
293 assistance to a person authorized by law to intercept wire,  
294 oral, or electronic communications if such provider, or an  
295 officer, employee, or agent thereof, or landlord, custodian, or  
296 other person, has been provided with:

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

299 ~~b.~~ A certification in writing by a person specified in s.  
300 934.09(7) that no search warrant or court order is required by

301 law, that all statutory requirements have been met, and that the  
302 specified assistance is required, setting forth the period of  
303 time during which the provision of the information, facilities,  
304 or technical assistance is authorized and specifying the  
305 information, facilities, or technical assistance required; or  
306 b. A search warrant issued by a judge of competent  
307 jurisdiction as required by law.

308 3. A provider of wire, oral, or electronic communication  
309 service, or an officer, employee, or agent thereof, or landlord,  
310 custodian, or other person may not disclose the existence of any  
311 interception or the device used to accomplish the interception  
312 with respect to which the person has been served with a search  
313 warrant ~~furnished an order under this section and ss. 934.04-~~  
314 ~~934.09,~~ except as may otherwise be required by legal process and  
315 then only after prior notice to the Governor, the Attorney  
316 General, the statewide prosecutor, or a state attorney, as may  
317 be appropriate. Any such disclosure renders such person liable  
318 for the civil damages provided under s. 934.10, and such person  
319 may be prosecuted under s. 934.43. An action may not be brought  
320 against any provider of wire, oral, or electronic communication  
321 service, or an officer, employee, or agent thereof, or landlord,  
322 custodian, or other person for providing information,  
323 facilities, or assistance in accordance with the terms of a  
324 search warrant ~~court order under this section and ss. 934.04-~~  
325 ~~934.09.~~

326 (b) It is lawful under this section and ss. 934.04-934.09  
327 for an officer, employee, or agent of the Federal Communications  
328 Commission, in the normal course of his or her employment and in  
329 discharge of the monitoring responsibilities exercised by the  
330 commission in the enforcement of 47 U.S.C. chapter 5, to  
331 intercept a wire, oral, or electronic communication transmitted  
332 by radio or to disclose or use the information thereby obtained.

333 (c) It is lawful under this section and ss. 934.04-934.09  
334 for an investigative or law enforcement officer or a person  
335 acting under the direction of an investigative or law  
336 enforcement officer to intercept a wire, oral, or electronic  
337 communication when such person is a party to the communication  
338 or one of the parties to the communication has given prior  
339 consent to such interception and the purpose of such  
340 interception is to obtain evidence of a criminal act.

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

345 (e) It is unlawful to intercept any wire, oral, or  
346 electronic communication for the purpose of committing any  
347 criminal act.

348 (f) It is lawful under this section and ss. 934.04-934.09  
349 for an employee of a telephone company to intercept a wire  
350 communication for the sole purpose of tracing the origin of such

351 communication when the interception is requested by the  
352 recipient of the communication and the recipient alleges that  
353 the communication is obscene, harassing, or threatening in  
354 nature. The individual conducting the interception shall notify  
355 local police authorities within 48 hours after the time of the  
356 interception.

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

359 1. An ambulance service licensed pursuant to s. 401.25, a  
360 fire station employing firefighters as defined by s. 633.102, a  
361 public utility, a law enforcement agency as defined by s.  
362 934.02(10), or any other entity with published emergency  
363 telephone numbers;

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

366 3. The central abuse hotline operated pursuant to s.  
367 39.201

368  
369 to intercept and record incoming wire communications; however,  
370 such employee may intercept and record incoming wire  
371 communications on designated "911" telephone numbers and  
372 published nonemergency telephone numbers staffed by trained  
373 dispatchers at public safety answering points only. It is also  
374 lawful for such employee to intercept and record outgoing wire  
375 communications to the numbers from which such incoming wire

376 | communications were placed when necessary to obtain information  
377 | required to provide the emergency services being requested. For  
378 | the purpose of this paragraph, the term "public utility" has the  
379 | same meaning as provided in s. 366.02 and includes a person,  
380 | partnership, association, or corporation now or hereafter owning  
381 | or operating equipment or facilities in the state for conveying  
382 | or transmitting messages or communications by telephone or  
383 | telegraph to the public for compensation.

384 |       (h) It shall not be unlawful under this section and ss.  
385 | 934.04-934.09 for any person:

386 |       1. To intercept or access an electronic communication made  
387 | through an electronic communication system that is configured so  
388 | that such electronic communication is readily accessible to the  
389 | general public.

390 |       2. To intercept any radio communication which is  
391 | transmitted:

392 |       a. By any station for the use of the general public, or  
393 | that relates to ships, aircraft, vehicles, or persons in  
394 | distress;

395 |       b. By any governmental, law enforcement, civil defense,  
396 | private land mobile, or public safety communications system,  
397 | including any police or fire communications system, readily  
398 | accessible to the general public;

399 |       c. By a station operating on an authorized frequency  
400 | within the bands allocated to the amateur, citizens band, or



401 general mobile radio services; or  
 402       d. By any marine or aeronautical communications system.  
 403       3. To engage in any conduct which:  
 404       a. Is prohibited by s. 633 of the Communications Act of  
 405 1934; or  
 406       b. Is excepted from the application of s. 705(a) of the  
 407 Communications Act of 1934 by s. 705(b) of that act.  
 408       4. To intercept any wire or electronic communication the  
 409 transmission of which is causing harmful interference to any  
 410 lawfully operating station of consumer electronic equipment to  
 411 the extent necessary to identify the source of such  
 412 interference.  
 413       5. To intercept, if such person is another user of the  
 414 same frequency, any radio communication that is not scrambled or  
 415 encrypted made through a system that utilizes frequencies  
 416 monitored by individuals engaged in the provision or the use of  
 417 such system.  
 418       6. To intercept a satellite transmission that is not  
 419 scrambled or encrypted and that is transmitted:  
 420       a. To a broadcasting station for purposes of  
 421 retransmission to the general public; or  
 422       b. As an audio subcarrier intended for redistribution to  
 423 facilities open to the public, but not including data  
 424 transmissions or telephone calls, when such interception is not  
 425 for the purposes of direct or indirect commercial advantage or

426 private financial gain.

427         7. To intercept and privately view a private satellite  
428 video communication that is not scrambled or encrypted or to  
429 intercept a radio communication that is transmitted on  
430 frequencies allocated under subpart D of part 74 of the rules of  
431 the Federal Communications Commission that is not scrambled or  
432 encrypted, if such interception is not for a tortious or illegal  
433 purpose or for purposes of direct or indirect commercial  
434 advantage or private commercial gain.

435         (i) It shall not be unlawful under this section and ss.  
436 934.04-934.09:

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

439             2. For a provider of electronic communication service to  
440 record the fact that a wire or electronic communication was  
441 initiated or completed in order to protect such provider,  
442 another provider furnishing service toward the completion of the  
443 wire or electronic communication, or a user of that service,  
444 from fraudulent, unlawful, or abusive use of such service.

445         (j) It is not unlawful under this section and ss. 934.04-  
446 934.09 for a person acting under color of law to intercept the  
447 wire or electronic communications of a computer trespasser which  
448 are transmitted to, through, or from a protected computer if:

449             1. The owner or operator of the protected computer  
450 authorizes the interception of the communications of the

451 computer trespasser;

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

454 3. The person acting under color of law has reasonable  
455 grounds to believe that the contents of the communications of  
456 the computer trespasser will be relevant to the investigation;  
457 and

458 4. The interception does not acquire communications other  
459 than those transmitted to, through, or from the computer  
460 trespasser.

461 (k) It is lawful under this section and ss. 934.04-934.09  
462 for a child under 18 years of age to intercept and record an  
463 oral communication if the child is a party to the communication  
464 and has reasonable grounds to believe that recording the  
465 communication will capture a statement by another party to the  
466 communication that the other party intends to commit, is  
467 committing, or has committed an unlawful sexual act or an  
468 unlawful act of physical force or violence against the child.

469 Section 6. Section 934.06, Florida Statutes, is amended  
470 to read:

471 934.06 Prohibition of use as evidence of intercepted wire  
472 or oral communications; content of cellular phone, microphone-  
473 enabled household device, or portable electronic communication  
474 device; exceptions ~~exception~~.—Whenever any wire or oral  
475 communication has been intercepted, or when the content of a

476 cellular phone, microphone-enabled household device, or portable  
477 electronic communication device is obtained without a search  
478 warrant supported by probable cause, no part of the contents of  
479 such communication or content and no evidence derived therefrom  
480 may be received in evidence in any trial, hearing, or other  
481 proceeding in or before any court, grand jury, department,  
482 officer, agency, regulatory body, legislative committee, or  
483 other authority of the state, or a political subdivision  
484 thereof, if the disclosure of that information would be in  
485 violation of this chapter. The prohibition of use as evidence  
486 provided in this section does not apply in cases of prosecution  
487 for criminal interception in violation of the provisions of this  
488 chapter, or in cases where the content of a cellular phone,  
489 microphone-enabled household device, or portable electronic  
490 communication device is lawfully obtained under circumstances  
491 where a search warrant is not required.

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

494 934.07 Authorization for interception of wire, oral, or  
495 electronic communications.—

496 (1) The Governor, the Attorney General, the statewide  
497 prosecutor, or any state attorney may authorize an application  
498 to a judge of competent jurisdiction for, and such judge may  
499 issue a search warrant as required by law ~~grant in conformity~~  
500 ~~with ss. 934.03-934.09 an order~~ authorizing or approving the

501 interception of, wire, oral, or electronic communications by:

502 (a) The Department of Law Enforcement or any law  
503 enforcement agency as defined in s. 934.02 having responsibility  
504 for the investigation of the offense as to which the application  
505 is made when such interception may provide or has provided  
506 evidence of the commission of the offense of murder, kidnapping,  
507 aircraft piracy, arson, gambling, robbery, burglary, theft,  
508 dealing in stolen property, criminal usury, bribery, or  
509 extortion; any felony violation of ss. 790.161-790.166,  
510 inclusive; any violation of s. 787.06; any violation of chapter  
511 893; any violation of the provisions of the Florida Anti-Fencing  
512 Act; any violation of chapter 895; any violation of chapter 896;  
513 any violation of chapter 815; any violation of chapter 847; any  
514 violation of s. 827.071; any violation of s. 944.40; or any  
515 conspiracy or solicitation to commit any violation of the laws  
516 of this state relating to the crimes specifically enumerated in  
517 this paragraph.

518 (b) The Department of Law Enforcement, together with other  
519 assisting personnel as authorized and requested by the  
520 department under s. 934.09(5), for the investigation of the  
521 offense as to which the application is made when such  
522 interception may provide or has provided evidence of the  
523 commission of any offense that may be an act of terrorism or in  
524 furtherance of an act of terrorism or evidence of any conspiracy  
525 or solicitation to commit any such violation.

526 (2) (a) If, during the course of an interception of  
527 communications by a law enforcement agency as authorized under  
528 paragraph (1) (a), the law enforcement agency finds that the  
529 intercepted communications may provide or have provided evidence  
530 of the commission of any offense that may be an act of terrorism  
531 or in furtherance of an act of terrorism, or evidence of any  
532 conspiracy or solicitation to commit any such violation, the law  
533 enforcement agency shall promptly notify the Department of Law  
534 Enforcement and apprise the department of the contents of the  
535 intercepted communications. The agency notifying the department  
536 may continue its previously authorized interception with  
537 appropriate minimization, as applicable, and may otherwise  
538 assist the department as provided in this section.

539 (b) Upon its receipt of information of the contents of an  
540 intercepted communications from a law enforcement agency, the  
541 Department of Law Enforcement shall promptly review the  
542 information to determine whether the information relates to an  
543 actual or anticipated act of terrorism as defined in this  
544 section. If, after reviewing the contents of the intercepted  
545 communications, there is probable cause that the contents of the  
546 intercepted communications meet the criteria of paragraph  
547 (1) (b), the Department of Law Enforcement may make application  
548 for the interception of wire, oral, or electronic communications  
549 consistent with paragraph (1) (b). The department may make an  
550 independent new application for interception based on the

551 contents of the intercepted communications. Alternatively, the  
 552 department may request the law enforcement agency that provided  
 553 the information to join with the department in seeking a new  
 554 search warrant as required by law or an amendment of the  
 555 original interception search warrant ~~order~~, or may seek  
 556 additional authority to continue intercepting communications  
 557 under the direction of the department. In carrying out its  
 558 duties under this section, the department may use the provisions  
 559 for an emergency interception provided in s. 934.09(7) if  
 560 applicable under statutory criteria.

561 Section 8. Section 934.09, Florida Statutes, is amended to  
 562 read:

563 934.09 Procedure for interception of wire, oral, or  
 564 electronic communications.—

565 (1) Each application for a search warrant ~~an order~~  
 566 authorizing or approving the interception of a wire, oral, or  
 567 electronic communication under ss. 934.03-934.09 shall be made  
 568 in writing upon oath or affirmation to a judge of competent  
 569 jurisdiction and shall state the applicant's authority to make  
 570 such application. Each application shall include the following  
 571 information:

572 (a) The identity of the investigative or law enforcement  
 573 officer making the application and the officer authorizing the  
 574 application.

575 (b) A full and complete statement of the facts and

576 | circumstances relied upon by the applicant to justify his or her  
577 | belief that a search warrant ~~an order~~ should be issued,  
578 | including:

579 |       1. Details as to the particular offense that has been, is  
580 | being, or is about to be committed.

581 |       2. Except as provided in subsection (11), a particular  
582 | description of the nature and location of the facilities from  
583 | which, or the place where, the communications are to be  
584 | intercepted.

585 |       3. A particular description of the type of communications  
586 | sought to be intercepted.

587 |       4. The identity of the person, if known, committing the  
588 | offense and whose communications are to be intercepted.

589 |       (c) A full and complete statement as to whether or not  
590 | other investigative procedures have been tried and failed or why  
591 | they reasonably appear to be unlikely to succeed if tried or to  
592 | be too dangerous.

593 |       (d) A statement of the period of time for which the  
594 | interception is required to be maintained and, if the nature of  
595 | the investigation is such that the authorization for  
596 | interception should not automatically terminate when the  
597 | described type of communication has been first obtained, a  
598 | particular description of facts establishing probable cause to  
599 | believe that additional communications of the same type will  
600 | occur thereafter.



601 (e) A full and complete statement of the facts concerning  
602 all previous applications known to the individual authorizing  
603 and making the application, made to any judge for authorization  
604 to intercept, or for approval of interceptions of, wire, oral,  
605 or electronic communications involving any of the same persons,  
606 facilities, or places specified in the application, and the  
607 action taken by the judge on each such application.

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

612 (2) The judge may require the applicant to furnish  
613 additional testimony or documentary evidence in support of the  
614 application.

615 (3) Upon such application, the judge may authorize a  
616 search warrant ~~enter an ex parte order~~, as requested or as  
617 modified, authorizing or approving interception of wire, oral,  
618 or electronic communications within the territorial jurisdiction  
619 of the court in which the judge is sitting, and outside such  
620 jurisdiction but within the State of Florida in the case of a  
621 mobile interception device authorized by the judge within such  
622 jurisdiction, if the judge determines on the basis of the facts  
623 submitted by the applicant that:

624 (a) There is probable cause for belief that an individual  
625 is committing, has committed, or is about to commit an offense

626 as provided in s. 934.07.

627 (b) There is probable cause for belief that particular  
628 communications concerning that offense will be obtained through  
629 such interception.

630 (c) Normal investigative procedures have been tried and  
631 have failed or reasonably appear to be unlikely to succeed if  
632 tried or to be too dangerous.

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

639 (4) Each search warrant ~~order~~ authorizing or approving the  
640 interception of any wire, oral, or electronic communication  
641 shall specify:

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

644 (b) The nature and location of the communications  
645 facilities as to which, or the place where, authority to  
646 intercept is granted.

647 (c) A particular description of the type of communication  
648 sought to be intercepted and a statement of the particular  
649 offense to which it relates.

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

651 | communications and of the person authorizing the application.

652 |       (e) The period of time during which such interception is  
653 | authorized, including a statement as to whether or not the  
654 | interception shall automatically terminate when the described  
655 | communication has been first obtained.

656 |

657 | A search warrant ~~An order~~ authorizing the interception of a  
658 | wire, oral, or electronic communication shall, upon the request  
659 | of the applicant, direct that a provider of wire or electronic  
660 | communication service, landlord, custodian, or other person  
661 | shall furnish the applicant forthwith all information,  
662 | facilities, and technical assistance necessary to accomplish the  
663 | interception unobtrusively and with a minimum of interference  
664 | with the services that such service provider, landlord,  
665 | custodian, or person is according the person whose  
666 | communications are to be intercepted. The obligation of a  
667 | provider of wire, oral, or electronic communication service  
668 | under such a search warrant ~~an order~~ may include, but is not  
669 | limited to, conducting an in-progress trace during an  
670 | interception, or providing other assistance to support the  
671 | investigation as may be specified in the search warrant ~~order~~.  
672 | Any provider of wire or electronic communication service,  
673 | landlord, custodian, or other person furnishing such facilities  
674 | or technical assistance shall be compensated therefor by the  
675 | applicant for reasonable expenses incurred in providing such

676 facilities or assistance.

677 (5) No search warrant ~~order~~ entered under this section may  
678 authorize or approve the interception of any wire, oral, or  
679 electronic communication for any period longer than is necessary  
680 to achieve the objective of the authorization or in any event  
681 longer than 30 days. Such 30-day period begins on the day on  
682 which the agent or officer of the law enforcement agency first  
683 begins to conduct an interception under the search warrant ~~order~~  
684 or 10 days after the search warrant is approved ~~order is~~  
685 ~~entered~~, whichever occurs earlier. Extensions of a search  
686 warrant ~~an order~~ may be granted but only upon application for an  
687 extension made in accordance with subsection (1) and upon the  
688 court making the findings required by subsection (3). The period  
689 of extension shall be no longer than the authorizing judge deems  
690 necessary to achieve the purposes for which it was granted and  
691 in no event for longer than 30 days. Every search warrant ~~order~~  
692 and extension thereof shall contain a provision that the  
693 authorization to intercept shall be executed as soon as  
694 practicable, shall be conducted in such a way as to minimize the  
695 interception of communications not otherwise subject to  
696 interception under ss. 934.03-934.09, and must terminate upon  
697 attainment of the authorized objective or in any event in 30  
698 days. If the intercepted communication is in code or foreign  
699 language and an expert in that foreign language or code is not  
700 reasonably available during the interception period,

701 minimization may be accomplished as soon as practicable after  
702 such interception. An interception under ss. 934.03-934.09 may  
703 be conducted in whole or in part by government personnel or by  
704 an individual operating under a contract with the government,  
705 acting under the supervision of an agent or officer of the law  
706 enforcement agency authorized to conduct the interception.

707 (6) Whenever a search warrant ~~an order~~ authorizing  
708 interception is granted ~~entered~~ pursuant to ss. 934.03-934.09,  
709 the search warrant ~~order~~ may require reports to be made to the  
710 judge who issued the search warrant ~~order~~ showing what progress  
711 has been made toward achievement of the authorized objective and  
712 the need for continued interception. Such reports shall be made  
713 at such intervals as the judge may require.

714 (7) Notwithstanding any other provision of this chapter,  
715 any investigative or law enforcement officer specially  
716 designated by the Governor, the Attorney General, the statewide  
717 prosecutor, or a state attorney acting under this chapter, who  
718 reasonably determines that:

719 (a) An emergency exists that:

720 1. Involves immediate danger of death or serious physical  
721 injury to any person, the danger of escape of a prisoner, or  
722 conspiratorial activities threatening the security interest of  
723 the nation or state; and

724 2. Requires that a wire, oral, or electronic communication  
725 be intercepted before a search warrant ~~an order~~ authorizing such

726 interception can, with due diligence, be obtained; and  
727 (b) There are grounds upon which a search warrant ~~an order~~  
728 could be entered under this chapter to authorize such  
729 interception  
730  
731 may intercept such wire, oral, or electronic communication if an  
732 application for a search warrant ~~an order~~ approving the  
733 interception is made in accordance with this section within 48  
734 hours after the interception has occurred or begins to occur. In  
735 the absence of a search warrant ~~an order~~, such interception  
736 shall immediately terminate when the communication sought is  
737 obtained or when the application for the search warrant ~~order~~ is  
738 denied, whichever is earlier. If such application for approval  
739 is denied, or in any other case in which the interception is  
740 terminated without a search warrant ~~an order~~ having been issued,  
741 the contents of any wire, oral, or electronic communication  
742 intercepted shall be treated as having been obtained in  
743 violation of s. 934.03(4), and an inventory shall be served as  
744 provided for in paragraph (8)(e) on the person named in the  
745 application.  
746 (8)(a) The contents of any wire, oral, or electronic  
747 communication intercepted by any means authorized by ss. 934.03-  
748 934.09 shall, if possible, be recorded on tape or wire or other  
749 comparable device. The recording of the contents of any wire,  
750 oral, or electronic communication under this subsection shall be

751 kept in such a way as will protect the recording from editing or  
752 other alterations. Immediately upon the expiration of the period  
753 of the search warrant ~~order~~, or extensions thereof, such  
754 recordings shall be made available to the judge approving the  
755 search warrant ~~issuing such order~~ and sealed under his or her  
756 directions. Custody of the recordings shall be wherever the  
757 judge orders. They shall not be destroyed except upon an order  
758 of the issuing or denying judge, or that judge's successor in  
759 office, and in any event shall be kept for 10 years. Duplicate  
760 recordings may be made for use or disclosure pursuant to the  
761 provisions of s. 934.08(1) and (2) for investigations, or for  
762 purposes of discovery as required by law.

763 (b) The presence of the seal provided for by this  
764 subsection, or a satisfactory explanation for the absence  
765 thereof, shall be a prerequisite for the use or disclosure of  
766 the contents of any wire, oral, or electronic communication or  
767 evidence derived therefrom under s. 934.08(3), as required by  
768 federal law.

769 (c) Applications made and search warrants ~~orders~~ granted  
770 under ss. 934.03-934.09 shall be sealed by the judge. Custody of  
771 the applications and search warrants ~~orders~~ shall be wherever  
772 the judge directs. As required by ~~federal~~ law, such applications  
773 and search warrants ~~orders~~ shall be disclosed only for purposes  
774 of discovery or upon a showing of good cause before a judge of  
775 competent jurisdiction and shall not be destroyed except on

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776 order of the issuing or denying judge, or that judge's successor  
777 in office, and in any event shall be kept for 10 years.

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

780 (e) Within a reasonable time but not later than 90 days  
781 after the termination of the period of a search warrant ~~an order~~  
782 or extensions thereof, the issuing or denying judge shall cause  
783 to be served on the persons named in the search warrant ~~order~~ or  
784 the application, and such other parties to intercepted  
785 communications as the judge may determine in his or her  
786 discretion to be in the interest of justice, an inventory which  
787 shall include notice of:

788 1. The fact of the approval of the search warrant ~~entry of~~  
789 ~~the order~~ or the application.

790 2. The date of the approval of the search warrant ~~entry~~  
791 and the period of authorized, approved, or disapproved  
792 interception, or the denial of the application.

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

795  
796 The judge, upon the filing of a motion, may make available to  
797 such person or the person's counsel for inspection such portions  
798 of the intercepted communications, applications, and search  
799 warrants ~~orders~~ as the judge determines to be in the interest of  
800 justice. On an ex parte showing of good cause to a judge of



801 competent jurisdiction, the serving of the inventory required by  
 802 this paragraph may be postponed.

803 (9) ~~As required by federal law,~~ The contents of any  
 804 intercepted wire, oral, or electronic communication or evidence  
 805 derived therefrom shall not be received in evidence or otherwise  
 806 disclosed in any trial, hearing, or other proceeding unless each  
 807 party, not less than 10 days before the trial, hearing, or  
 808 proceeding, has been furnished with a copy of the search warrant  
 809 ~~court order~~ and accompanying application under which the  
 810 interception was authorized or approved. This 10-day period may  
 811 be waived by the judge if he or she finds that it was not  
 812 possible to furnish the party with the above information 10 days  
 813 before the trial, hearing, or proceeding and that the party will  
 814 not be prejudiced by the delay in receiving such information.

815 (10) (a) An ~~Any~~ aggrieved person before or in any trial,  
 816 hearing, or proceeding in or before any court, department,  
 817 officer, agency, regulatory body, or other authority may move to  
 818 suppress the contents of any intercepted wire, oral, or  
 819 electronic communication, or evidence derived therefrom, on the  
 820 grounds that:

- 821 1. The communication was unlawfully intercepted;
- 822 2. The search warrant ~~order of authorization or approval~~  
 823 under which it was intercepted is insufficient on its face; or
- 824 3. The interception was not made in conformity with the  
 825 search warrant ~~order of authorization or approval~~.

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

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

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

835            3. The judge, upon the filing of such motion by the  
 836 aggrieved person, may make available to the aggrieved person or  
 837 his or her counsel for inspection such portions of the  
 838 intercepted communication or evidence derived therefrom as the  
 839 judge determines to be in the interest of justice.

840            (c) ~~(b)~~ In addition to any other right to appeal, the state  
 841 shall have the right to appeal from an order granting a motion  
 842 to suppress made under paragraph (a) or the denial of an  
 843 application for a search warrant ~~an order of approval~~ if the  
 844 attorney shall certify to the judge or other official granting  
 845 such motion or denying such application that the appeal is not  
 846 taken for purposes of delay. Such appeal shall be taken within  
 847 30 days after the date the order was entered and shall be  
 848 diligently prosecuted.

849            (d) ~~(e)~~ The remedies and sanctions described in ss. 934.03-  
 850 934.10 with respect to the interception of electronic

851 | communications are the only judicial remedies and sanctions for  
852 | violations of those sections involving such communications.

853 |       (11) The requirements of subparagraph (1)(b)2. and  
854 | paragraph (3)(d) relating to the specification of the facilities  
855 | from which, or the place where, the communication is to be  
856 | intercepted do not apply if:

857 |       (a) In the case of an application with respect to the  
858 | interception of an oral communication:

859 |           1. The application is by an agent or officer of a law  
860 | enforcement agency and is approved by the Governor, the Attorney  
861 | General, the statewide prosecutor, or a state attorney.

862 |           2. The application contains a full and complete statement  
863 | as to why such specification is not practical and identifies the  
864 | person committing the offense and whose communications are to be  
865 | intercepted.

866 |           3. The judge finds that such specification is not  
867 | practical.

868 |       (b) In the case of an application with respect to a wire  
869 | or electronic communication:

870 |           1. The application is by an agent or officer of a law  
871 | enforcement agency and is approved by the Governor, the Attorney  
872 | General, the statewide prosecutor, or a state attorney.

873 |           2. The application identifies the person believed to be  
874 | committing the offense and whose communications are to be  
875 | intercepted and the applicant makes a showing that there is

876 | probable cause to believe that the person's actions could have  
 877 | the effect of thwarting interception from a specified facility  
 878 | or that the person whose communications are to be intercepted  
 879 | has removed, or is likely to remove, himself or herself to  
 880 | another judicial circuit within the state.

881 |         3. The judge finds that such showing has been adequately  
 882 | made.

883 |         4. The search warrant ~~order~~ authorizing or approving the  
 884 | interception is limited to interception only for such time as it  
 885 | is reasonable to presume that the person identified in the  
 886 | application is or was reasonably proximate to the instrument  
 887 | through which such communication will be or was transmitted.

888 |  
 889 | ~~Consistent with this paragraph, a judge of competent~~  
 890 | ~~jurisdiction may authorize interception within this state,~~  
 891 | ~~whether the interception is within or outside the court's~~  
 892 | ~~jurisdiction, if the application for the interception makes a~~  
 893 | ~~showing that some activity or conspiracy believed to be related~~  
 894 | ~~to, or in furtherance of, the criminal predicate for the~~  
 895 | ~~requested interception has occurred or will likely occur, or the~~  
 896 | ~~communication to be intercepted or expected to be intercepted is~~  
 897 | ~~occurring or will likely occur, in whole or in part, within the~~  
 898 | ~~jurisdiction of the court where the order is being sought.~~

899 |         (12) If an interception of a communication is to be  
 900 | carried out pursuant to subsection (11), such interception may

901 not begin until the facilities from which, or the place where,  
 902 the communication is to be intercepted is ascertained by the  
 903 person implementing the interception search warrant ~~order~~. A  
 904 provider of wire or electronic communications service that has  
 905 received a search warrant ~~an order~~ as provided under paragraph  
 906 (11) (b) may petition the court to modify or quash the search  
 907 warrant ~~order~~ on the ground that the interception cannot be  
 908 performed in a timely or reasonable fashion. The court, upon  
 909 notice to the state, shall decide such a petition expeditiously.

910 (13) Consistent with this section, a judge of competent  
 911 jurisdiction may authorize interception within this state,  
 912 whether the interception is within or outside the court's  
 913 jurisdiction, if the application for the interception makes a  
 914 showing that some activity or conspiracy believed to be related  
 915 to, or in furtherance of, the criminal predicate for the  
 916 requested interception has occurred or will likely occur, or the  
 917 communication to be intercepted or expected to be intercepted is  
 918 occurring or will likely occur, in whole or in part, within the  
 919 jurisdiction of the court where the search warrant is being  
 920 sought.

921 Section 9. Subsection (2) of section 934.10, Florida  
 922 Statutes, is amended, and subsection (1) of that section is  
 923 republished, to read:

924 934.10 Civil remedies.—

925 (1) Any person whose wire, oral, or electronic

926 | communication is intercepted, disclosed, or used in violation of  
 927 | ss. 934.03-934.09 shall have a civil cause of action against any  
 928 | person or entity who intercepts, discloses, or uses, or procures  
 929 | any other person or entity to intercept, disclose, or use, such  
 930 | communications and shall be entitled to recover from any such  
 931 | person or entity which engaged in that violation such relief as  
 932 | may be appropriate, including:

933 |       (a) Preliminary or equitable or declaratory relief as may  
 934 | be appropriate;

935 |       (b) Actual damages, but not less than liquidated damages  
 936 | computed at the rate of \$100 a day for each day of violation or  
 937 | \$1,000, whichever is higher;

938 |       (c) Punitive damages; and

939 |       (d) A reasonable attorney's fee and other litigation costs  
 940 | reasonably incurred.

941 |       (2) A good faith reliance on any of the following  
 942 | constitutes a complete defense to any civil, criminal, or  
 943 | administrative action arising out of such conduct under the laws  
 944 | of this state:

945 |       (a) A search warrant ~~court order, subpoena, or legislative~~  
 946 | ~~authorization~~ as provided for in ss. 934.03-934.09; IT

947 |       (b) A request of an investigative or law enforcement  
 948 | officer under s. 934.09(7); IT or

949 |       (c) A good faith determination that Florida or federal  
 950 | law, other than 18 U.S.C. s. 2511(2)(d), authorized ~~permitted~~

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951 the conduct complained of  
952  
953 ~~shall constitute a complete defense to any civil or criminal, or~~  
954 ~~administrative action arising out of such conduct under the laws~~  
955 ~~of this state.~~

956 Section 10. Section 934.21, Florida Statutes, is amended  
957 to read:

958 934.21 Unlawful access to stored communications;  
959 penalties.—

960 (1) Except as provided in subsection (3), whoever:

961 (a) Intentionally accesses without authorization a  
962 facility through which an electronic communication service is  
963 provided, or

964 (b) Intentionally exceeds an authorization to access such  
965 facility,

966  
967 and thereby obtains, alters, or prevents authorized access to a  
968 wire or electronic communication while it is in electronic  
969 storage in such system shall be punished as provided in  
970 subsection (2).

971 (2) The punishment for an offense under subsection (1) is  
972 as follows:

973 (a) If the offense is committed for purposes of commercial  
974 advantage, malicious destruction or damage, or private  
975 commercial gain, the person ~~is~~:

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

979 2. In the case of any subsequent offense under this  
 980 subsection, commits ~~guilty of~~ a felony of the third degree,  
 981 punishable as provided in s. 775.082, s. 775.083, s. 775.084, or  
 982 s. 934.41.

983 (b) In any other case, the person commits ~~is guilty of~~ a  
 984 misdemeanor of the second degree, punishable as provided in s.  
 985 775.082 or s. 775.083.

986 (3) Subsection (1) does not apply with respect to conduct  
 987 authorized:

988 (a) By the person or entity providing a wire, oral, or  
 989 electronic communications service, including through cellular  
 990 phones, microphone-enabled household devices, or portable  
 991 electronic communication devices;

992 (b) By a user of a wire, oral, or electronic  
 993 communications service, including through cellular phones,  
 994 microphone-enabled household devices, or portable electronic  
 995 communication devices, with respect to a communication of or  
 996 intended for that user; ~~or~~

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

998 (d) In chapter 933; or

999 (e) For accessing for a legitimate business purpose  
 1000 information that is not personally identifiable or that has been



1001 collected in a way that prevents identification of the user of  
1002 the device.

1003 Section 11. Section 934.42, Florida Statutes, is amended  
1004 to read:

1005 934.42 Mobile tracking device and location tracking  
1006 authorization.—

1007 (1) As used in this section, the term:

1008 (a) "Mobile tracking device" means an electronic or  
1009 mechanical device that tracks the movement of a person or an  
1010 object.

1011 (b) "Real-time location tracking" means the:

1012 1. Installation and use of a mobile tracking device on the  
1013 object to be tracked;

1014 2. Acquisition of real-time cell-site location data; or

1015 3. Acquisition of real-time precise global positioning  
1016 system location data.

1017 (c) "Historical location data" means historical precise  
1018 global positioning system location data in the possession of a  
1019 provider.

1020 (2)~~(1)~~ An investigative or law enforcement officer may  
1021 make application to a judge of competent jurisdiction for a  
1022 search warrant ~~an order~~ authorizing or approving real-time  
1023 location tracking or the acquisition of historical location data  
1024 in the possession of the provider ~~the installation and use of a~~  
1025 mobile tracking device.

1026 (3)-(2) An application under subsection (2) ~~(1)~~ of this  
1027 section must include:

1028 (a) A statement of the identity of the applicant and the  
1029 identity of the law enforcement agency conducting the  
1030 investigation.

1031 (b) A statement setting forth a reasonable period of time  
1032 the mobile tracking device may be used or the location data may  
1033 be obtained in real time, not to exceed 45 days from the date on  
1034 which the search warrant is issued. The court may, for good  
1035 cause, grant one or more extensions for a reasonable period of  
1036 time, not to exceed 45 days each. When seeking historical  
1037 location data, the applicant must specify a date range for the  
1038 data sought ~~certification by the applicant that the information~~  
1039 ~~likely to be obtained is relevant to an ongoing criminal~~  
1040 ~~investigation being conducted by the investigating agency.~~

1041 (c) A statement of the offense to which the information  
1042 likely to be obtained relates.

1043 (d) A statement as to whether it may be necessary to use  
1044 and monitor the mobile tracking device outside the jurisdiction  
1045 of the court from which authorization is being sought.

1046 (4)-(3) Upon application made as provided under subsection  
1047 (3) ~~(2)~~, the court, if it finds probable cause ~~that the~~  
1048 ~~certification~~ and finds that the statements required by  
1049 subsection (3) ~~(2)~~ have been made in the application, must grant  
1050 a search warrant ~~shall enter an ex parte order~~ authorizing real-

1051 time location tracking or the acquisition of historical location  
1052 data ~~the installation and use of a mobile tracking device~~. Such  
1053 search warrant order may authorize the location tracking use of  
1054 ~~the device~~ within the jurisdiction of the court and outside that  
1055 jurisdiction but within the State of Florida if the location  
1056 tracking device is initiated installed within the jurisdiction  
1057 of the court. The search warrant must command the investigative  
1058 or law enforcement officer to complete any initiation of the  
1059 location tracking or execution of the search warrant for  
1060 historical location data authorized by the search warrant within  
1061 a specified period of time not to exceed 10 calendar days.

1062 (5) ~~(4)~~ A court may not require greater specificity or  
1063 additional information beyond that which is required by law and  
1064 this section as a requisite for issuing a search warrant an  
1065 order.

1066 (6) Within 10 days after the time period specified in  
1067 paragraph (3)(b) has ended, the investigative or law enforcement  
1068 officer executing a search warrant must return the search  
1069 warrant to the issuing judge. When the search warrant is  
1070 authorizing the acquisition of historical location data, the  
1071 investigative or law enforcement officer executing the search  
1072 warrant must return the search warrant to the issuing judge  
1073 within 10 days after receipt of the records. The investigative  
1074 or law enforcement officer may do so by reliable electronic  
1075 means.

1076 (7) Within 10 days after the time period specified in  
1077 paragraph (3)(b) has ended, the investigative or law enforcement  
1078 officer executing a search warrant must serve a copy of the  
1079 search warrant on the person who, or whose property, was  
1080 tracked. When the search warrant is authorizing the acquisition  
1081 of historical location data, the investigative or law  
1082 enforcement officer executing the search warrant must serve a  
1083 copy of the search warrant on the person whose data was obtained  
1084 within 10 days after receipt of the records. Service may be  
1085 accomplished by delivering a copy to the person who, or whose  
1086 property, was tracked or whose data was obtained or by leaving a  
1087 copy at the person's residence or usual place of abode with an  
1088 individual of suitable age and discretion who resides at that  
1089 location and by mailing a copy to the person's last known  
1090 address. Upon a showing of good cause to a court of competent  
1091 jurisdiction, the court may grant one or more postponements of  
1092 this notice for a period of 90 days each.

1093 (8)-(5) The standards established by Florida courts and the  
1094 United States Supreme Court for the installation, use, or and  
1095 monitoring of mobile tracking devices and the acquisition of  
1096 location data shall apply to the installation, use, or  
1097 monitoring and use of any device and the acquisition of location  
1098 data as authorized by this section.

1099 ~~(6) As used in this section, a "tracking device" means an~~  
1100 ~~electronic or mechanical device which permits the tracking of~~

1101 ~~the movement of a person or object.~~

1102 (9) (a) Notwithstanding any other provision of this  
1103 chapter, any investigative or law enforcement officer specially  
1104 designated by the Governor, the Attorney General, the statewide  
1105 prosecutor, or a state attorney acting pursuant to this chapter  
1106 who reasonably determines that:

1107 1. An emergency exists which:

1108 a. Involves immediate danger of death or serious physical  
1109 injury to any person or the danger of escape of a prisoner; and

1110 b. Requires real-time location tracking before a search  
1111 warrant authorizing such tracking can, with due diligence, be  
1112 obtained; and

1113 2. There are grounds upon which a search warrant could be  
1114 issued under this chapter to authorize such tracking,

1115  
1116 may engage in real-time location tracking if, within 48 hours  
1117 after the tracking has occurred or begins to occur, a search  
1118 warrant approving the tracking is issued in accordance with this  
1119 section.

1120 (b) In the absence of an authorizing search warrant, such  
1121 tracking must immediately terminate when the information sought  
1122 is obtained, when the application for the search warrant is  
1123 denied, or when 48 hours have lapsed since the tracking began,  
1124 whichever is earlier.

1125 Section 12. For the purpose of incorporating the

1126 amendments made by this act to sections 934.03 and 934.07,  
 1127 Florida Statutes, in a reference thereto, paragraph (b) of  
 1128 subsection (2) of section 934.22, Florida Statutes, is reenacted  
 1129 to read:

1130       934.22 Voluntary disclosure of customer communications or  
 1131 records.—

1132       (2) A provider described in subsection (1) may divulge the  
 1133 contents of a communication:

1134       (b) As otherwise authorized in s. 934.03(2)(a), s. 934.07,  
 1135 or s. 934.23.

1136       Section 13. For the purpose of incorporating the  
 1137 amendments made by this act to sections 934.09 and 934.21,  
 1138 Florida Statutes, in references thereto, subsections (1) and (4)  
 1139 of section 934.27, Florida Statutes, are reenacted to read:

1140       934.27 Civil action: relief; damages; defenses.—

1141       (1) Except as provided in s. 934.23(5), any provider of  
 1142 electronic communication service, or subscriber or customer  
 1143 thereof, aggrieved by any violation of ss. 934.21-934.28 in  
 1144 which the conduct constituting the violation is engaged in with  
 1145 a knowing or intentional state of mind may, in a civil action,  
 1146 recover from the person or entity which engaged in that  
 1147 violation such relief as is appropriate.

1148       (4) A good faith reliance on any of the following is a  
 1149 complete defense to any civil or criminal action brought under  
 1150 ss. 934.21-934.28:

1151 (a) A court warrant or order, a subpoena, or a statutory  
 1152 authorization, including, but not limited to, a request of an  
 1153 investigative or law enforcement officer to preserve records or  
 1154 other evidence, as provided in s. 934.23(7).

1155 (b) A request of an investigative or law enforcement  
 1156 officer under s. 934.09(7).

1157 (c) A good faith determination that s. 934.03(3) permitted  
 1158 the conduct complained of.

1159 Section 14. For the purpose of incorporating the amendment  
 1160 made by this act to section 934.21, Florida Statutes, in a  
 1161 reference thereto, subsection (6) of section 934.23, Florida  
 1162 Statutes, is reenacted to read:

1163 934.23 Required disclosure of customer communications or  
 1164 records.—

1165 (6) No cause of action shall lie in any court against any  
 1166 provider of wire or electronic communication service, its  
 1167 officers, employees, agents, or other specified persons for  
 1168 providing information, facilities, or assistance in accordance  
 1169 with the terms of a court order, warrant, subpoena, or  
 1170 certification under ss. 934.21-934.28.

1171 Section 15. For the purpose of incorporating the amendment  
 1172 made by this act to section 934.21, Florida Statutes, in  
 1173 references thereto, subsections (6) and (7) of section 934.24,  
 1174 Florida Statutes, are reenacted to read:

1175 934.24 Backup preservation; customer notification;

1176 challenges by customer.—

1177       (6) Within 14 days after notice by the investigative or  
 1178 law enforcement officer to the subscriber or customer under  
 1179 subsection (2), the subscriber or customer may file a motion to  
 1180 quash the subpoena or vacate the court order seeking contents of  
 1181 electronic communications, with copies served upon the  
 1182 investigative or law enforcement officer and with written notice  
 1183 of such challenge to the service provider. A motion to vacate a  
 1184 court order must be filed in the court which issued the order. A  
 1185 motion to quash a subpoena must be filed in the circuit court in  
 1186 the circuit from which the subpoena issued. Such motion or  
 1187 application must contain an affidavit or sworn statement:

1188       (a) Stating that the applicant is a subscriber or customer  
 1189 of the service from which the contents of electronic  
 1190 communications maintained for her or him have been sought, and

1191       (b) Stating the applicant's reasons for believing that the  
 1192 records sought are not relevant to a legitimate law enforcement  
 1193 inquiry or that there has not been substantial compliance with  
 1194 the provisions of ss. 934.21-934.28 in some other respect.

1195       (7) Except as otherwise obtained under paragraph (3)(a),  
 1196 service must be made under this section upon an investigative or  
 1197 law enforcement officer by delivering or mailing by registered  
 1198 or certified mail a copy of the papers to the person, office, or  
 1199 department specified in the notice which the subscriber or  
 1200 customer has received pursuant to ss. 934.21-934.28. For the



1201 purposes of this subsection, the term "delivering" shall be  
 1202 construed in accordance with the definition of "delivery" as  
 1203 provided in Rule 1.080, Florida Rules of Civil Procedure.

1204 Section 16. For the purpose of incorporating the amendment  
 1205 made by this act to section 934.21, Florida Statutes, in a  
 1206 reference thereto, subsection (5) of section 934.25, Florida  
 1207 Statutes, is reenacted to read:

1208 934.25 Delayed notice.—

1209 (5) Upon the expiration of the period of delay of  
 1210 notification under subsection (1) or subsection (4), the  
 1211 investigative or law enforcement officer must serve upon or  
 1212 deliver by registered or first-class mail to the subscriber or  
 1213 customer a copy of the process or request together with notice  
 1214 which:

1215 (a) States with reasonable specificity the nature of the  
 1216 law enforcement inquiry, and

1217 (b) Informs the subscriber or customer:

1218 1. That information maintained for such subscriber or  
 1219 customer by the service provider named in the process or request  
 1220 was supplied to or requested by the investigative or law  
 1221 enforcement officer and the date on which such information was  
 1222 so supplied or requested.

1223 2. That notification of such subscriber or customer was  
 1224 delayed.

1225 3. What investigative or law enforcement officer or what

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1226 | court made the certification or determination pursuant to which  
1227 | that delay was made.

1228 |         4. Which provision of ss. 934.21-934.28 allowed such  
1229 | delay.

1230 |         Section 17. For the purpose of incorporating the amendment  
1231 | made by this act to section 934.21, Florida Statutes, in a  
1232 | reference thereto, section 934.28, Florida Statutes, is  
1233 | reenacted to read:

1234 |         934.28 Exclusivity of remedies and sanctions.—The remedies  
1235 | and sanctions described in ss. 934.21-934.27 are the only  
1236 | judicial remedies and sanctions for violation of those sections.

1237 |         Section 18. This act shall take effect July 1, 2020.