

By Senator Brandes

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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

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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

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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

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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

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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

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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

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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

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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



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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,

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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, oral,  
290 or electronic communication service, or an officer, employee, or

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291 agent thereof, or landlord, custodian, or other person, may  
292 provide information, facilities, or technical assistance to a  
293 person authorized by law to intercept wire, oral, or electronic  
294 communications if such provider, or an officer, employee, or  
295 agent thereof, or landlord, custodian, or other person, has been  
296 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

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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

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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. 39.201  
367

368 to intercept and record incoming wire communications; however,  
369 such employee may intercept and record incoming wire  
370 communications on designated "911" telephone numbers and  
371 published nonemergency telephone numbers staffed by trained  
372 dispatchers at public safety answering points only. It is also  
373 lawful for such employee to intercept and record outgoing wire  
374 communications to the numbers from which such incoming wire  
375 communications were placed when necessary to obtain information  
376 required to provide the emergency services being requested. For  
377 the purpose of this paragraph, the term "public utility" has the

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378 same meaning as provided in s. 366.02 and includes a person,  
379 partnership, association, or corporation now or hereafter owning  
380 or operating equipment or facilities in the state for conveying  
381 or transmitting messages or communications by telephone or  
382 telegraph to the public for compensation.

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

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

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

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

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

398 c. By a station operating on an authorized frequency within  
399 the bands allocated to the amateur, citizens band, or general  
400 mobile radio services; or

401 d. By any marine or aeronautical communications system.

402 3. To engage in any conduct which:

403 a. Is prohibited by s. 633 of the Communications Act of  
404 1934; or

405 b. Is excepted from the application of s. 705(a) of the  
406 Communications Act of 1934 by s. 705(b) of that act.

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407           4. To intercept any wire or electronic communication the  
408 transmission of which is causing harmful interference to any  
409 lawfully operating station of consumer electronic equipment to  
410 the extent necessary to identify the source of such  
411 interference.

412           5. To intercept, if such person is another user of the same  
413 frequency, any radio communication that is not scrambled or  
414 encrypted made through a system that utilizes frequencies  
415 monitored by individuals engaged in the provision or the use of  
416 such system.

417           6. To intercept a satellite transmission that is not  
418 scrambled or encrypted and that is transmitted:

419           a. To a broadcasting station for purposes of retransmission  
420 to the general public; or

421           b. As an audio subcarrier intended for redistribution to  
422 facilities open to the public, but not including data  
423 transmissions or telephone calls, when such interception is not  
424 for the purposes of direct or indirect commercial advantage or  
425 private financial gain.

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

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

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

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

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

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

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

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

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

460 (k) It is lawful under this section and ss. 934.04-934.09  
461 for a child under 18 years of age to intercept and record an  
462 oral communication if the child is a party to the communication  
463 and has reasonable grounds to believe that recording the  
464 communication will capture a statement by another party to the



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465 communication that the other party intends to commit, is  
466 committing, or has committed an unlawful sexual act or an  
467 unlawful act of physical force or violence against the child.

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

470 934.06 Prohibition of use as evidence of intercepted wire  
471 or oral communications; content of cellular phone, microphone-  
472 enabled household device, or portable electronic communication  
473 device; exceptions ~~exception~~.—Whenever any wire or oral  
474 communication has been intercepted, or when the content of a  
475 cellular phone, microphone-enabled household device, or portable  
476 electronic communication device is obtained without a search  
477 warrant supported by probable cause, no part of the contents of  
478 such communication or content and no evidence derived therefrom  
479 may be received in evidence in any trial, hearing, or other  
480 proceeding in or before any court, grand jury, department,  
481 officer, agency, regulatory body, legislative committee, or  
482 other authority of the state, or a political subdivision  
483 thereof, if the disclosure of that information would be in  
484 violation of this chapter. The prohibition of use as evidence  
485 provided in this section does not apply in cases of prosecution  
486 for criminal interception in violation of the provisions of this  
487 chapter, or in cases where the content of a cellular phone,  
488 microphone-enabled household device, or portable electronic  
489 communication device is lawfully obtained under circumstances  
490 where a search warrant is not required.

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

493 934.07 Authorization for interception of wire, oral, or

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494 electronic communications.-

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

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

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

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523 furtherance of an act of terrorism or evidence of any conspiracy  
524 or solicitation to commit any such violation.

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

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

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

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

562 934.09 Procedure for interception of wire, oral, or  
563 electronic communications.—

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

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

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

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

580 2. Except as provided in subsection (11), a particular

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581 description of the nature and location of the facilities from  
582 which, or the place where, the communications are to be  
583 intercepted.

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

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

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

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

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

607 (f) When the application is for the extension of a search  
608 warrant ~~an order~~, a statement setting forth the results thus far  
609 obtained from the interception or a reasonable explanation of

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610 the failure to obtain such results.

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

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

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

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

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

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

638 (4) Each search warrant ~~order~~ authorizing or approving the

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639 interception of any wire, oral, or electronic communication  
640 shall specify:

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

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

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

649 (d) The identity of the agency authorized to intercept the  
650 communications and of the person authorizing the application.

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

655

656 A search warrant ~~An order~~ authorizing the interception of a  
657 wire, oral, or electronic communication shall, upon the request  
658 of the applicant, direct that a provider of wire or electronic  
659 communication service, landlord, custodian, or other person  
660 shall furnish the applicant forthwith all information,  
661 facilities, and technical assistance necessary to accomplish the  
662 interception unobtrusively and with a minimum of interference  
663 with the services that such service provider, landlord,  
664 custodian, or person is according the person whose  
665 communications are to be intercepted. The obligation of a  
666 provider of wire, oral, or electronic communication service  
667 under such a search warrant ~~an order~~ may include, but is not

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668 limited to, conducting an in-progress trace during an  
669 interception, or providing other assistance to support the  
670 investigation as may be specified in the search warrant ~~order~~.  
671 Any provider of wire or electronic communication service,  
672 landlord, custodian, or other person furnishing such facilities  
673 or technical assistance shall be compensated therefor by the  
674 applicant for reasonable expenses incurred in providing such  
675 facilities or assistance.

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



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697 days. If the intercepted communication is in code or foreign  
698 language and an expert in that foreign language or code is not  
699 reasonably available during the interception period,  
700 minimization may be accomplished as soon as practicable after  
701 such interception. An interception under ss. 934.03-934.09 may  
702 be conducted in whole or in part by government personnel or by  
703 an individual operating under a contract with the government,  
704 acting under the supervision of an agent or officer of the law  
705 enforcement agency authorized to conduct the interception.

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

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

718 (a) An emergency exists that:

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

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

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

729  
730 may intercept such wire, oral, or electronic communication if an  
731 application for a search warrant ~~an order~~ approving the  
732 interception is made in accordance with this section within 48  
733 hours after the interception has occurred or begins to occur. In  
734 the absence of a search warrant ~~an order~~, such interception  
735 shall immediately terminate when the communication sought is  
736 obtained or when the application for the search warrant ~~order~~ is  
737 denied, whichever is earlier. If such application for approval  
738 is denied, or in any other case in which the interception is  
739 terminated without a search warrant ~~an order~~ having been issued,  
740 the contents of any wire, oral, or electronic communication  
741 intercepted shall be treated as having been obtained in  
742 violation of s. 934.03(4), and an inventory shall be served as  
743 provided for in paragraph (8)(e) on the person named in the  
744 application.

745 (8)(a) The contents of any wire, oral, or electronic  
746 communication intercepted by any means authorized by ss. 934.03-  
747 934.09 shall, if possible, be recorded on tape or wire or other  
748 comparable device. The recording of the contents of any wire,  
749 oral, or electronic communication under this subsection shall be  
750 kept in such a way as will protect the recording from editing or  
751 other alterations. Immediately upon the expiration of the period  
752 of the search warrant ~~order~~, or extensions thereof, such  
753 recordings shall be made available to the judge approving the  
754 search warrant ~~issuing such order~~ and sealed under his or her

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755 directions. Custody of the recordings shall be wherever the  
756 judge orders. They shall not be destroyed except upon an order  
757 of the issuing or denying judge, or that judge's successor in  
758 office, and in any event shall be kept for 10 years. Duplicate  
759 recordings may be made for use or disclosure pursuant to the  
760 provisions of s. 934.08(1) and (2) for investigations, or for  
761 purposes of discovery as required by law.

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

768 (c) Applications made and search warrants ~~orders~~ granted  
769 under ss. 934.03-934.09 shall be sealed by the judge. Custody of  
770 the applications and search warrants ~~orders~~ shall be wherever  
771 the judge directs. As required by ~~federal~~ law, such applications  
772 and search warrants ~~orders~~ shall be disclosed only for purposes  
773 of discovery or upon a showing of good cause before a judge of  
774 competent jurisdiction and shall not be destroyed except on  
775 order of the issuing or denying judge, or that judge's successor  
776 in office, and in any event shall be kept for 10 years.

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

779 (e) Within a reasonable time but not later than 90 days  
780 after the termination of the period of a search warrant ~~an order~~  
781 or extensions thereof, the issuing or denying judge shall cause  
782 to be served on the persons named in the search warrant ~~order~~ or  
783 the application, and such other parties to intercepted

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784 communications as the judge may determine in his or her  
785 discretion to be in the interest of justice, an inventory which  
786 shall include notice of:

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

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

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

794

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

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

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813 not be prejudiced by the delay in receiving such information.

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

820 1. The communication was unlawfully intercepted;

821 2. The search warrant ~~order of authorization or approval~~  
822 under which it was intercepted is insufficient on its face; or

823 3. The interception was not made in conformity with the  
824 search warrant ~~order of authorization or approval~~.

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

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

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

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

839 (c) ~~(b)~~ In addition to any other right to appeal, the state  
840 shall have the right to appeal from an order granting a motion  
841 to suppress made under paragraph (a) or the denial of an

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842 application for a search warrant ~~an order of approval~~ if the  
843 attorney shall certify to the judge or other official granting  
844 such motion or denying such application that the appeal is not  
845 taken for purposes of delay. Such appeal shall be taken within  
846 30 days after the date the order was entered and shall be  
847 diligently prosecuted.

848 (d) ~~(e)~~ The remedies and sanctions described in ss. 934.03-  
849 934.10 with respect to the interception of electronic  
850 communications are the only judicial remedies and sanctions for  
851 violations of those sections involving such communications.

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

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

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

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

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

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

869 1. The application is by an agent or officer of a law  
870 enforcement agency and is approved by the Governor, the Attorney

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871 General, the statewide prosecutor, or a state attorney.

872 2. The application identifies the person believed to be  
873 committing the offense and whose communications are to be  
874 intercepted and the applicant makes a showing that there is  
875 probable cause to believe that the person's actions could have  
876 the effect of thwarting interception from a specified facility  
877 or that the person whose communications are to be intercepted  
878 has removed, or is likely to remove, himself or herself to  
879 another judicial circuit within the state.

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

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

887  
888 ~~Consistent with this paragraph, a judge of competent~~  
889 ~~jurisdiction may authorize interception within this state,~~  
890 ~~whether the interception is within or outside the court's~~  
891 ~~jurisdiction, if the application for the interception makes a~~  
892 ~~showing that some activity or conspiracy believed to be related~~  
893 ~~to, or in furtherance of, the criminal predicate for the~~  
894 ~~requested interception has occurred or will likely occur, or the~~  
895 ~~communication to be intercepted or expected to be intercepted is~~  
896 ~~occurring or will likely occur, in whole or in part, within the~~  
897 ~~jurisdiction of the court where the order is being sought.~~

898 (12) If an interception of a communication is to be carried  
899 out pursuant to subsection (11), such interception may not begin

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

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

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

923 934.10 Civil remedies.—

924 (1) Any person whose wire, oral, or electronic  
 925 communication is intercepted, disclosed, or used in violation of  
 926 ss. 934.03-934.09 shall have a civil cause of action against any  
 927 person or entity who intercepts, discloses, or uses, or procures  
 928 any other person or entity to intercept, disclose, or use, such



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929 communications and shall be entitled to recover from any such  
 930 person or entity which engaged in that violation such relief as  
 931 may be appropriate, including:

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

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

937 (c) Punitive damages; and

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

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

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

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

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

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

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

957 934.21 Unlawful access to stored communications;

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958 penalties.—

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

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

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

965

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

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

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

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

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

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

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

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

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

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

996 (d) In chapter 933; or

997 (e) For accessing for a legitimate business purpose  
 998 information that is not personally identifiable or that has been  
 999 collected in a way that prevents identification of the user of  
 1000 the device.

1001 Section 11. Section 934.42, Florida Statutes, is amended to  
 1002 read:

1003 934.42 Mobile tracking device and location tracking  
 1004 authorization.—

1005 (1) As used in this section, the term:

1006 (a) "Mobile tracking device" means an electronic or  
 1007 mechanical device that tracks the movement of a person or an  
 1008 object.

1009 (b) "Real-time location tracking" means the:

1010 1. Installation and use of a mobile tracking device on the  
 1011 object to be tracked;

1012 2. Acquisition of real-time cell-site location data; or

1013 3. Acquisition of real-time precise global positioning  
 1014 system location data.

1015 (c) "Historical location data" means historical precise

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1016 global positioning system location data in the possession of a  
1017 provider.

1018 (2)~~(1)~~ An investigative or law enforcement officer may make  
1019 application to a judge of competent jurisdiction for a search  
1020 warrant ~~an order~~ authorizing or approving real-time location  
1021 tracking or the acquisition of historical location data in the  
1022 possession of the provider ~~the installation and use of a mobile~~  
1023 ~~tracking device.~~

1024 (3)~~(2)~~ An application under subsection (2) ~~(1)~~ ~~of this~~  
1025 ~~section~~ must include:

1026 (a) A statement of the identity of the applicant and the  
1027 identity of the law enforcement agency conducting the  
1028 investigation.

1029 (b) A statement setting forth a reasonable period of time  
1030 the mobile tracking device may be used or the location data may  
1031 be obtained in real time, not to exceed 45 days from the date on  
1032 which the search warrant is issued. The court may, for good  
1033 cause, grant one or more extensions for a reasonable period of  
1034 time, not to exceed 45 days each. When seeking historical  
1035 location data, the applicant must specify a date range for the  
1036 data sought ~~certification by the applicant that the information~~  
1037 ~~likely to be obtained is relevant to an ongoing criminal~~  
1038 ~~investigation being conducted by the investigating agency.~~

1039 (c) A statement of the offense to which the information  
1040 likely to be obtained relates.

1041 (d) A statement as to whether it may be necessary to use  
1042 and monitor the mobile tracking device outside the jurisdiction  
1043 of the court from which authorization is being sought.

1044 (4)~~(3)~~ Upon application made as provided under subsection

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1045 (3) ~~(2)~~, the court, if it finds probable cause ~~that the~~  
1046 ~~certification~~ and finds that the statements required by  
1047 subsection (3) ~~(2)~~ have been made in the application, must grant  
1048 a search warrant ~~shall enter an~~ ex parte ~~order~~ authorizing real-  
1049 time location tracking or the acquisition of historical location  
1050 data ~~the installation and use of a mobile tracking device~~. Such  
1051 search warrant ~~order~~ may authorize the location tracking ~~use of~~  
1052 ~~the device~~ within the jurisdiction of the court and outside that  
1053 jurisdiction but within the State of Florida if the location  
1054 tracking device is initiated ~~installed~~ within the jurisdiction  
1055 of the court. The search warrant must command the investigative  
1056 or law enforcement officer to complete any initiation of the  
1057 location tracking or execution of the search warrant for  
1058 historical location data authorized by the search warrant within  
1059 a specified period of time not to exceed 10 calendar days.

1060 (5) ~~(4)~~ A court may not require greater specificity or  
1061 additional information beyond that which is required by law and  
1062 this section as a requisite for issuing a search warrant ~~an~~  
1063 ~~order~~.

1064 (6) Within 10 days after the time period specified in  
1065 paragraph (3) (b) has ended, the investigative or law enforcement  
1066 officer executing a search warrant must return the search  
1067 warrant to the issuing judge. When the search warrant is  
1068 authorizing the acquisition of historical location data, the  
1069 investigative or law enforcement officer executing the search  
1070 warrant must return the search warrant to the issuing judge  
1071 within 10 days after receipt of the records. The investigative  
1072 or law enforcement officer may do so by reliable electronic  
1073 means.

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1074 (7) Within 10 days after the time period specified in  
1075 paragraph (3)(b) has ended, the investigative or law enforcement  
1076 officer executing a search warrant must serve a copy of the  
1077 search warrant on the person who, or whose property, was  
1078 tracked. When the search warrant is authorizing the acquisition  
1079 of historical location data, the investigative or law  
1080 enforcement officer executing the search warrant must serve a  
1081 copy of the search warrant on the person whose data was obtained  
1082 within 10 days after receipt of the records. Service may be  
1083 accomplished by delivering a copy to the person who, or whose  
1084 property, was tracked or whose data was obtained or by leaving a  
1085 copy at the person's residence or usual place of abode with an  
1086 individual of suitable age and discretion who resides at that  
1087 location and by mailing a copy to the person's last known  
1088 address. Upon a showing of good cause to a court of competent  
1089 jurisdiction, the court may grant one or more postponements of  
1090 this notice for a period of 90 days each.

1091 (8)~~(5)~~ The standards established by Florida courts and the  
1092 United States Supreme Court for the installation, use, or ~~and~~  
1093 monitoring of mobile tracking devices and the acquisition of  
1094 location data shall apply to the installation, use, or  
1095 monitoring ~~and use~~ of any device and the acquisition of location  
1096 data as authorized by this section.

1097 ~~(6) As used in this section, a "tracking device" means an~~  
1098 ~~electronic or mechanical device which permits the tracking of~~  
1099 ~~the movement of a person or object.~~

1100 (9) (a) Notwithstanding any other provision of this chapter,  
1101 any investigative or law enforcement officer specially  
1102 designated by the Governor, the Attorney General, the statewide

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1103 prosecutor, or a state attorney acting pursuant to this chapter  
1104 who reasonably determines that:

1105 1. An emergency exists which:

1106 a. Involves immediate danger of death or serious physical  
1107 injury to any person or the danger of escape of a prisoner; and

1108 b. Requires real-time location tracking before a search  
1109 warrant authorizing such tracking can, with due diligence, be  
1110 obtained; and

1111 2. There are grounds upon which a search warrant could be  
1112 issued under this chapter to authorize such tracking,

1113  
1114 may engage in real-time location tracking if, within 48 hours  
1115 after the tracking has occurred or begins to occur, a search  
1116 warrant approving the tracking is issued in accordance with this  
1117 section.

1118 (b) In the absence of an authorizing search warrant, such  
1119 tracking must immediately terminate when the information sought  
1120 is obtained, when the application for the search warrant is  
1121 denied, or when 48 hours have lapsed since the tracking began,  
1122 whichever is earlier.

1123 Section 12. For the purpose of incorporating the amendments  
1124 made by this act to sections 934.03 and 934.07, Florida  
1125 Statutes, in a reference thereto, paragraph (b) of subsection  
1126 (2) of section 934.22, Florida Statutes, is reenacted to read:

1127 934.22 Voluntary disclosure of customer communications or  
1128 records.—

1129 (2) A provider described in subsection (1) may divulge the  
1130 contents of a communication:

1131 (b) As otherwise authorized in s. 934.03(2)(a), s. 934.07,

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1132 or s. 934.23.

1133 Section 13. For the purpose of incorporating the amendments  
1134 made by this act to sections 934.09 and 934.21, Florida  
1135 Statutes, in references thereto, subsections (1) and (4) of  
1136 section 934.27, Florida Statutes, are reenacted to read:

1137 934.27 Civil action: relief; damages; defenses.—

1138 (1) Except as provided in s. 934.23(5), any provider of  
1139 electronic communication service, or subscriber or customer  
1140 thereof, aggrieved by any violation of ss. 934.21-934.28 in  
1141 which the conduct constituting the violation is engaged in with  
1142 a knowing or intentional state of mind may, in a civil action,  
1143 recover from the person or entity which engaged in that  
1144 violation such relief as is appropriate.

1145 (4) A good faith reliance on any of the following is a  
1146 complete defense to any civil or criminal action brought under  
1147 ss. 934.21-934.28:

1148 (a) A court warrant or order, a subpoena, or a statutory  
1149 authorization, including, but not limited to, a request of an  
1150 investigative or law enforcement officer to preserve records or  
1151 other evidence, as provided in s. 934.23(7).

1152 (b) A request of an investigative or law enforcement  
1153 officer under s. 934.09(7).

1154 (c) A good faith determination that s. 934.03(3) permitted  
1155 the conduct complained of.

1156 Section 14. For the purpose of incorporating the amendment  
1157 made by this act to section 934.21, Florida Statutes, in a  
1158 reference thereto, subsection (6) of section 934.23, Florida  
1159 Statutes, is reenacted to read:

1160 934.23 Required disclosure of customer communications or



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1161 records.—

1162 (6) No cause of action shall lie in any court against any  
1163 provider of wire or electronic communication service, its  
1164 officers, employees, agents, or other specified persons for  
1165 providing information, facilities, or assistance in accordance  
1166 with the terms of a court order, warrant, subpoena, or  
1167 certification under ss. 934.21-934.28.

1168 Section 15. For the purpose of incorporating the amendment  
1169 made by this act to section 934.21, Florida Statutes, in  
1170 references thereto, subsections (6) and (7) of section 934.24,  
1171 Florida Statutes, are reenacted to read:

1172 934.24 Backup preservation; customer notification;  
1173 challenges by customer.—

1174 (6) Within 14 days after notice by the investigative or law  
1175 enforcement officer to the subscriber or customer under  
1176 subsection (2), the subscriber or customer may file a motion to  
1177 quash the subpoena or vacate the court order seeking contents of  
1178 electronic communications, with copies served upon the  
1179 investigative or law enforcement officer and with written notice  
1180 of such challenge to the service provider. A motion to vacate a  
1181 court order must be filed in the court which issued the order. A  
1182 motion to quash a subpoena must be filed in the circuit court in  
1183 the circuit from which the subpoena issued. Such motion or  
1184 application must contain an affidavit or sworn statement:

1185 (a) Stating that the applicant is a subscriber or customer  
1186 of the service from which the contents of electronic  
1187 communications maintained for her or him have been sought, and

1188 (b) Stating the applicant's reasons for believing that the  
1189 records sought are not relevant to a legitimate law enforcement

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1190 inquiry or that there has not been substantial compliance with  
1191 the provisions of ss. 934.21-934.28 in some other respect.

1192 (7) Except as otherwise obtained under paragraph (3)(a),  
1193 service must be made under this section upon an investigative or  
1194 law enforcement officer by delivering or mailing by registered  
1195 or certified mail a copy of the papers to the person, office, or  
1196 department specified in the notice which the subscriber or  
1197 customer has received pursuant to ss. 934.21-934.28. For the  
1198 purposes of this subsection, the term "delivering" shall be  
1199 construed in accordance with the definition of "delivery" as  
1200 provided in Rule 1.080, Florida Rules of Civil Procedure.

1201 Section 16. For the purpose of incorporating the amendment  
1202 made by this act to section 934.21, Florida Statutes, in a  
1203 reference thereto, subsection (5) of section 934.25, Florida  
1204 Statutes, is reenacted to read:

1205 934.25 Delayed notice.—

1206 (5) Upon the expiration of the period of delay of  
1207 notification under subsection (1) or subsection (4), the  
1208 investigative or law enforcement officer must serve upon or  
1209 deliver by registered or first-class mail to the subscriber or  
1210 customer a copy of the process or request together with notice  
1211 which:

1212 (a) States with reasonable specificity the nature of the  
1213 law enforcement inquiry, and

1214 (b) Informs the subscriber or customer:

1215 1. That information maintained for such subscriber or  
1216 customer by the service provider named in the process or request  
1217 was supplied to or requested by the investigative or law  
1218 enforcement officer and the date on which such information was

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1219 so supplied or requested.

1220 2. That notification of such subscriber or customer was  
1221 delayed.

1222 3. What investigative or law enforcement officer or what  
1223 court made the certification or determination pursuant to which  
1224 that delay was made.

1225 4. Which provision of ss. 934.21-934.28 allowed such delay.

1226 Section 17. For the purpose of incorporating the amendment  
1227 made by this act to section 934.21, Florida Statutes, in a  
1228 reference thereto, section 934.28, Florida Statutes, is  
1229 reenacted to read:

1230 934.28 Exclusivity of remedies and sanctions.—The remedies  
1231 and sanctions described in ss. 934.21-934.27 are the only  
1232 judicial remedies and sanctions for violation of those sections.

1233 Section 18. This act shall take effect July 1, 2020.