

By the Committee on Criminal Justice; and Senators Brandes and Bracy

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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      terms "oral communication" and "electronic  
16      communication"; defining the terms "microphone-enabled  
17      household device" and "portable electronic  
18      communication device"; amending s. 934.03, F.S.;  
19      authorizing specified persons to provide information,  
20      facilities, or technical assistance to a person  
21      authorized by law to intercept wire, oral, or  
22      electronic communications if such person has been  
23      provided with a search warrant issued by a court of  
24      competent jurisdiction; prohibiting specified persons  
25      from disclosing the existence of any interception of a  
26      wire, oral, or electronic communication with respect  
27      to which the person has been served with a search  
28      warrant, rather than a court order; amending s.  
29      934.06, F.S.; prohibiting the use of certain

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30 communication content in any trial, hearing or other  
31 proceeding which was obtained without a specified  
32 warrant; providing an exception; amending s. 934.07,  
33 F.S.; authorizing a judge to issue a search warrant,  
34 rather than grant a court order, in conformity with  
35 specified provisions; authorizing the Department of  
36 Law Enforcement to request a law enforcement agency  
37 that provided certain information to join the  
38 department in seeking a new search warrant; amending  
39 s. 934.09, F.S.; requiring that each application for a  
40 search warrant, rather than an order, authorizing or  
41 approving the interception of wire, oral, or  
42 electronic communications be made in writing and state  
43 the applicant's authority; authorizing a judge to  
44 authorize a search warrant ex parte, rather than an ex  
45 parte order, based on the application under certain  
46 circumstances; specifying requirements for search  
47 warrants, rather than orders, issued under certain  
48 circumstances; authorizing an aggrieved person to move  
49 to suppress the contents of certain wire, oral, or  
50 electronic communications before, as well as during, a  
51 trial, hearing, or proceeding; providing for  
52 inadmissibility of certain evidence if a certain  
53 motion is granted; authorizing a judge of competent  
54 jurisdiction to authorize interception of wire, oral,  
55 or electronic communications within this state under  
56 specified circumstances; amending s. 934.10, F.S.;  
57 providing that a good faith reliance on a search  
58 warrant, rather than a court order, subpoena, or

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59 legislative authorization, issued under certain  
60 provisions constitutes a complete defense against  
61 specified actions; amending s. 934.21, F.S.; revising  
62 the exceptions to conduct that constitutes unlawful  
63 access to stored communications; conforming a  
64 provision to changes made by the act; amending s.  
65 934.42, F.S.; defining the terms "mobile tracking  
66 device," "real-time location tracking," and  
67 "historical location data"; authorizing an  
68 investigative or law enforcement officer to apply to a  
69 judge of competent jurisdiction for a search warrant,  
70 rather than an order, authorizing real-time location  
71 tracking or acquisition of historical location data;  
72 requiring an application for a search warrant to  
73 include a statement setting forth a reasonable period  
74 of time the mobile tracking device may be used or the  
75 location data may be obtained in real time, not to  
76 exceed a specified limit; authorizing a court to grant  
77 extensions, for good cause, that do not individually  
78 exceed a specified limit; requiring an applicant  
79 seeking historical location data to specify a date  
80 range for the data sought; deleting a provision  
81 requiring a certification to be included in the  
82 application; requiring the court, if it finds probable  
83 cause and that the application contains the required  
84 statements, to grant a search warrant; specifying that  
85 the search warrant may authorize real-time location  
86 tracking or acquisition of historical location data;  
87 providing that the search warrant may authorize the

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88 tracking as specified; requiring the search warrant to  
89 command the investigative or law enforcement officer  
90 to complete any initiation of the location tracking or  
91 execution of the search warrant for historical  
92 location data authorized by the search warrant within  
93 a certain timeframe; providing requirements for the  
94 return of the search warrant to the judge and for  
95 service of a copy of the search warrant on the person  
96 who was tracked or whose property was tracked;  
97 providing requirements for returning and serving a  
98 search warrant authorizing the acquisition of  
99 historical location data; authorizing a court, for  
100 good cause, to postpone the notice requirement for a  
101 specified time period; requiring that the standards  
102 established by Florida courts for the installation,  
103 use, or monitoring of mobile tracking devices and the  
104 acquisition of location data apply to the  
105 installation, use, or monitoring of any devices and  
106 the acquisition of location data as authorized by  
107 certain provisions; deleting the definition of  
108 "tracking device"; authorizing any investigative or  
109 law enforcement officer who is specially designated by  
110 certain persons and who makes specified determinations  
111 to engage in real-time location tracking if a search  
112 warrant is obtained, as specified, after the tracking  
113 has occurred or begins to occur; providing  
114 requirements for engaging in real-time location  
115 tracking; specifying when real-time location tracking  
116 must terminate; reenacting s. 934.22(2)(b), F.S.,

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117 relating to voluntary disclosure of customer  
118 communications or records, to incorporate the  
119 amendments made to ss. 934.03 and 934.07, F.S., in  
120 references thereto; reenacting s. 934.27(1) and (4),  
121 F.S., relating to relief, damages, and defenses for  
122 certain civil actions, to incorporate the amendments  
123 made to ss. 934.09 and 934.21, F.S., in references  
124 thereto; reenacting ss. 934.23(6), 934.24(6) and (7),  
125 934.25(5), and 934.28, F.S., relating to required  
126 disclosures of customer communications or records, a  
127 subscriber or customer filing a motion for certain  
128 relief and customer notification, delayed notice, and  
129 the exclusivity of remedies and sanctions for certain  
130 violations, respectively, to incorporate the amendment  
131 made to s. 934.21, F.S., in references thereto;  
132 providing an effective date.  
133

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

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

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

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

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

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

145 (b) In connection with gambling, gambling implements and

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146 appliances; or

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

149 (3) When any property, or when content held within a  
150 cellular phone, a portable electronic communication device as  
151 defined in s. 934.02, or a microphone-enabled household device  
152 as defined in s. 934.02, constitutes evidence relevant to  
153 proving that a felony has been committed.~~†~~

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

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

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

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

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

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

164

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

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

170 933.04 Affidavits.—The right of the people to be secure in  
171 their persons, houses, papers and effects against unreasonable  
172 seizures and searches and against the unreasonable interception  
173 of private communications by any means shall not be violated and  
174 no search warrant shall be issued except upon probable cause,

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175 supported by oath or affirmation particularly describing the  
176 place to be searched and the person and thing to be seized.

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

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

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

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

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

202 (4) To safeguard the privacy of innocent persons, the  
203 interception of wire, ~~or~~ or electronic communications when

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

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

226 (6) The Legislature recognizes the use of portable  
227 electronic communication devices is growing at a rapidly  
228 increasing rate. These devices can store, and encourage the  
229 storing of, an almost limitless amount of personal and private  
230 information. Often linked to the Internet, these devices are  
231 commonly used to access personal and business information and  
232 databases in computers and servers that can be located anywhere



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233 in the world. The user of a portable electronic communication  
234 device has a reasonable and justifiable expectation of privacy  
235 in the information that these devices contain.

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

247 Section 4. Subsections (2) and (12) of section 934.02,  
248 Florida Statutes, are amended, and subsections (27) and (28) are  
249 added to that section, to read:

250 934.02 Definitions.—As used in this chapter:

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

258 (12) "Electronic communication" means any transfer of  
259 signs, signals, writing, images, sounds, data, or intelligence  
260 of any nature transmitted in whole or in part by a wire, radio,  
261 communication tower, satellite, electromagnetic,

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262 photoelectronic, or photooptical system that affects intrastate,  
263 interstate, or foreign commerce, but does not include:

264 (a) Any wire or oral communication;

265 (b) Any communication made through a tone-only paging  
266 device;

267 ~~(c) Any communication from an electronic or mechanical~~  
268 ~~device which permits the tracking of the movement of a person or~~  
269 ~~an object; or~~

270 (c)~~(d)~~ Electronic funds transfer information stored by a  
271 financial institution in a communications system used for the  
272 electronic storage and transfer of funds.

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

275 (a) Is capable of connecting to the Internet, directly or  
276 indirectly, or to another connected device;

277 (b) Is capable of creating, receiving, accessing,  
278 processing, or storing electronic data or communications;

279 (c) Communicates with, by any means, another entity or  
280 individual; and

281 (d) Contains a microphone designed to listen for and  
282 respond to environmental cues.

283 (28) "Portable electronic communication device" means an  
284 object that may be easily transported or conveyed by a person;  
285 is capable of creating, receiving, accessing, processing, or  
286 storing electronic data or communications; and communicates  
287 with, by any means, another device, entity, or individual.

288 Section 5. Subsection (2) of section 934.03, Florida  
289 Statutes, is amended to read:

290 934.03 Interception and disclosure of wire, oral, or

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291 electronic communications prohibited.—

292 (2)(a)1. It is lawful under this section and ss. 934.04-  
293 934.09 for an operator of a switchboard, or an officer,  
294 employee, or agent of a provider of wire or electronic  
295 communication service whose facilities are used in the  
296 transmission of a wire or electronic communication, to  
297 intercept, disclose, or use that communication in the normal  
298 course of his or her employment while engaged in any activity  
299 which is a necessary incident to the rendition of his or her  
300 service or to the protection of the rights or property of the  
301 provider of that service, except that a provider of wire  
302 communication service to the public shall not utilize service  
303 observing or random monitoring except for mechanical or service  
304 quality control checks.

305 2. Notwithstanding any other law, a provider of wire, oral,  
306 or electronic communication service, or an officer, employee, or  
307 agent thereof, or landlord, custodian, or other person, may  
308 provide information, facilities, or technical assistance to a  
309 person authorized by law to intercept wire, oral, or electronic  
310 communications if such provider, or an officer, employee, or  
311 agent thereof, or landlord, custodian, or other person, has been  
312 provided with:

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

315 ~~b.~~ A certification in writing by a person specified in s.  
316 934.09(7) that no search warrant or court order is required by  
317 law, that all statutory requirements have been met, and that the  
318 specified assistance is required, setting forth the period of  
319 time during which the provision of the information, facilities,

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320 or technical assistance is authorized and specifying the  
321 information, facilities, or technical assistance required; or

322 b. A search warrant issued by a judge of competent  
323 jurisdiction as required by law.

324 3. A provider of wire, oral, or electronic communication  
325 service, or an officer, employee, or agent thereof, or landlord,  
326 custodian, or other person may not disclose the existence of any  
327 interception or the device used to accomplish the interception  
328 with respect to which the person has been served with a search  
329 warrant ~~furnished an order under this section and ss. 934.04-~~  
330 ~~934.09~~, except as may otherwise be required by legal process and  
331 then only after prior notice to the Governor, the Attorney  
332 General, the statewide prosecutor, or a state attorney, as may  
333 be appropriate. Any such disclosure renders such person liable  
334 for the civil damages provided under s. 934.10, and such person  
335 may be prosecuted under s. 934.43. An action may not be brought  
336 against any provider of wire, oral, or electronic communication  
337 service, or an officer, employee, or agent thereof, or landlord,  
338 custodian, or other person for providing information,  
339 facilities, or assistance in accordance with the terms of a  
340 search warrant ~~court order under this section and ss. 934.04-~~  
341 ~~934.09~~.

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

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349 (c) It is lawful under this section and ss. 934.04-934.09  
350 for an investigative or law enforcement officer or a person  
351 acting under the direction of an investigative or law  
352 enforcement officer to intercept a wire, oral, or electronic  
353 communication when such person is a party to the communication  
354 or one of the parties to the communication has given prior  
355 consent to such interception and the purpose of such  
356 interception is to obtain evidence of a criminal act.

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

361 (e) It is unlawful to intercept any wire, oral, or  
362 electronic communication for the purpose of committing any  
363 criminal act.

364 (f) It is lawful under this section and ss. 934.04-934.09  
365 for an employee of a telephone company to intercept a wire  
366 communication for the sole purpose of tracing the origin of such  
367 communication when the interception is requested by the  
368 recipient of the communication and the recipient alleges that  
369 the communication is obscene, harassing, or threatening in  
370 nature. The individual conducting the interception shall notify  
371 local police authorities within 48 hours after the time of the  
372 interception.

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

375 1. An ambulance service licensed pursuant to s. 401.25, a  
376 fire station employing firefighters as defined by s. 633.102, a  
377 public utility, a law enforcement agency as defined by s.

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378 934.02(10), or any other entity with published emergency  
379 telephone numbers;

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

382 3. The central abuse hotline operated pursuant to s. 39.201  
383

384 to intercept and record incoming wire communications; however,  
385 such employee may intercept and record incoming wire  
386 communications on designated "911" telephone numbers and  
387 published nonemergency telephone numbers staffed by trained  
388 dispatchers at public safety answering points only. It is also  
389 lawful for such employee to intercept and record outgoing wire  
390 communications to the numbers from which such incoming wire  
391 communications were placed when necessary to obtain information  
392 required to provide the emergency services being requested. For  
393 the purpose of this paragraph, the term "public utility" has the  
394 same meaning as provided in s. 366.02 and includes a person,  
395 partnership, association, or corporation now or hereafter owning  
396 or operating equipment or facilities in the state for conveying  
397 or transmitting messages or communications by telephone or  
398 telegraph to the public for compensation.

399 (h) It shall not be unlawful under this section and ss.  
400 934.04-934.09 for any person:

401 1. To intercept or access an electronic communication made  
402 through an electronic communication system that is configured so  
403 that such electronic communication is readily accessible to the  
404 general public.

405 2. To intercept any radio communication which is  
406 transmitted:

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- 407           a. By any station for the use of the general public, or  
408 that relates to ships, aircraft, vehicles, or persons in  
409 distress;
- 410           b. By any governmental, law enforcement, civil defense,  
411 private land mobile, or public safety communications system,  
412 including any police or fire communications system, readily  
413 accessible to the general public;
- 414           c. By a station operating on an authorized frequency within  
415 the bands allocated to the amateur, citizens band, or general  
416 mobile radio services; or
- 417           d. By any marine or aeronautical communications system.
- 418           3. To engage in any conduct which:
- 419           a. Is prohibited by s. 633 of the Communications Act of  
420 1934; or
- 421           b. Is excepted from the application of s. 705(a) of the  
422 Communications Act of 1934 by s. 705(b) of that act.
- 423           4. To intercept any wire or electronic communication the  
424 transmission of which is causing harmful interference to any  
425 lawfully operating station of consumer electronic equipment to  
426 the extent necessary to identify the source of such  
427 interference.
- 428           5. To intercept, if such person is another user of the same  
429 frequency, any radio communication that is not scrambled or  
430 encrypted made through a system that utilizes frequencies  
431 monitored by individuals engaged in the provision or the use of  
432 such system.
- 433           6. To intercept a satellite transmission that is not  
434 scrambled or encrypted and that is transmitted:
- 435           a. To a broadcasting station for purposes of retransmission

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436 to the general public; or

437 b. As an audio subcarrier intended for redistribution to  
438 facilities open to the public, but not including data  
439 transmissions or telephone calls, when such interception is not  
440 for the purposes of direct or indirect commercial advantage or  
441 private financial gain.

442 7. To intercept and privately view a private satellite  
443 video communication that is not scrambled or encrypted or to  
444 intercept a radio communication that is transmitted on  
445 frequencies allocated under subpart D of part 74 of the rules of  
446 the Federal Communications Commission that is not scrambled or  
447 encrypted, if such interception is not for a tortious or illegal  
448 purpose or for purposes of direct or indirect commercial  
449 advantage or private commercial gain.

450 (i) It shall not be unlawful under this section and ss.  
451 934.04-934.09:

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

454 2. For a provider of electronic communication service to  
455 record the fact that a wire or electronic communication was  
456 initiated or completed in order to protect such provider,  
457 another provider furnishing service toward the completion of the  
458 wire or electronic communication, or a user of that service,  
459 from fraudulent, unlawful, or abusive use of such service.

460 (j) It is not unlawful under this section and ss. 934.04-  
461 934.09 for a person acting under color of law to intercept the  
462 wire or electronic communications of a computer trespasser which  
463 are transmitted to, through, or from a protected computer if:

464 1. The owner or operator of the protected computer



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465 authorizes the interception of the communications of the  
466 computer trespasser;

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

469 3. The person acting under color of law has reasonable  
470 grounds to believe that the contents of the communications of  
471 the computer trespasser will be relevant to the investigation;  
472 and

473 4. The interception does not acquire communications other  
474 than those transmitted to, through, or from the computer  
475 trespasser.

476 (k) It is lawful under this section and ss. 934.04-934.09  
477 for a child under 18 years of age to intercept and record an  
478 oral communication if the child is a party to the communication  
479 and has reasonable grounds to believe that recording the  
480 communication will capture a statement by another party to the  
481 communication that the other party intends to commit, is  
482 committing, or has committed an unlawful sexual act or an  
483 unlawful act of physical force or violence against the child.

484 Section 6. Section 934.06, Florida Statutes, is amended to  
485 read:

486 934.06 Prohibition of use as evidence of intercepted wire  
487 or oral communications; content of cellular phone, microphone-  
488 enabled household device, or portable electronic communication  
489 device; exceptions ~~exception~~.—Whenever any wire or oral  
490 communication has been intercepted, or when the content of a  
491 cellular phone, microphone-enabled household device, or portable  
492 electronic communication device is obtained without a search  
493 warrant supported by probable cause, no part of the contents of

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494 such communication or content and no evidence derived therefrom  
495 may be received in evidence in any trial, hearing, or other  
496 proceeding in or before any court, grand jury, department,  
497 officer, agency, regulatory body, legislative committee, or  
498 other authority of the state, or a political subdivision  
499 thereof, if the disclosure of that information would be in  
500 violation of this chapter. The prohibition of use as evidence  
501 provided in this section does not apply in cases of prosecution  
502 for criminal interception in violation of the provisions of this  
503 chapter, or in cases where the content of a cellular phone,  
504 microphone-enabled household device, or portable electronic  
505 communication device is lawfully obtained under circumstances  
506 where a search warrant is not required.

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

509 934.07 Authorization for interception of wire, oral, or  
510 electronic communications.-

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

517 (a) The Department of Law Enforcement or any law  
518 enforcement agency as defined in s. 934.02 having responsibility  
519 for the investigation of the offense as to which the application  
520 is made when such interception may provide or has provided  
521 evidence of the commission of the offense of murder, kidnapping,  
522 aircraft piracy, arson, gambling, robbery, burglary, theft,

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523 dealing in stolen property, criminal usury, bribery, or  
524 extortion; any felony violation of ss. 790.161-790.166,  
525 inclusive; any violation of s. 787.06; any violation of chapter  
526 893; any violation of the provisions of the Florida Anti-Fencing  
527 Act; any violation of chapter 895; any violation of chapter 896;  
528 any violation of chapter 815; any violation of chapter 847; any  
529 violation of s. 827.071; any violation of s. 944.40; or any  
530 conspiracy or solicitation to commit any violation of the laws  
531 of this state relating to the crimes specifically enumerated in  
532 this paragraph.

533 (b) The Department of Law Enforcement, together with other  
534 assisting personnel as authorized and requested by the  
535 department under s. 934.09(5), for the investigation of the  
536 offense as to which the application is made when such  
537 interception may provide or has provided evidence of the  
538 commission of any offense that may be an act of terrorism or in  
539 furtherance of an act of terrorism or evidence of any conspiracy  
540 or solicitation to commit any such violation.

541 (2) (a) If, during the course of an interception of  
542 communications by a law enforcement agency as authorized under  
543 paragraph (1) (a), the law enforcement agency finds that the  
544 intercepted communications may provide or have provided evidence  
545 of the commission of any offense that may be an act of terrorism  
546 or in furtherance of an act of terrorism, or evidence of any  
547 conspiracy or solicitation to commit any such violation, the law  
548 enforcement agency shall promptly notify the Department of Law  
549 Enforcement and apprise the department of the contents of the  
550 intercepted communications. The agency notifying the department  
551 may continue its previously authorized interception with

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552 appropriate minimization, as applicable, and may otherwise  
553 assist the department as provided in this section.

554 (b) Upon its receipt of information of the contents of an  
555 intercepted communications from a law enforcement agency, the  
556 Department of Law Enforcement shall promptly review the  
557 information to determine whether the information relates to an  
558 actual or anticipated act of terrorism as defined in this  
559 section. If, after reviewing the contents of the intercepted  
560 communications, there is probable cause that the contents of the  
561 intercepted communications meet the criteria of paragraph  
562 (1) (b), the Department of Law Enforcement may make application  
563 for the interception of wire, oral, or electronic communications  
564 consistent with paragraph (1) (b). The department may make an  
565 independent new application for interception based on the  
566 contents of the intercepted communications. Alternatively, the  
567 department may request the law enforcement agency that provided  
568 the information to join with the department in seeking a new  
569 search warrant as required by law or an amendment of the  
570 original interception search warrant ~~order~~, or may seek  
571 additional authority to continue intercepting communications  
572 under the direction of the department. In carrying out its  
573 duties under this section, the department may use the provisions  
574 for an emergency interception provided in s. 934.09(7) if  
575 applicable under statutory criteria.

576 Section 8. Section 934.09, Florida Statutes, is amended to  
577 read:

578 934.09 Procedure for interception of wire, oral, or  
579 electronic communications.—

580 (1) Each application for a search warrant ~~an order~~

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581 authorizing or approving the interception of a wire, oral, or  
582 electronic communication under ss. 934.03-934.09 shall be made  
583 in writing upon oath or affirmation to a judge of competent  
584 jurisdiction and shall state the applicant's authority to make  
585 such application. Each application shall include the following  
586 information:

587 (a) The identity of the investigative or law enforcement  
588 officer making the application and the officer authorizing the  
589 application.

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

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

596 2. Except as provided in subsection (11), a particular  
597 description of the nature and location of the facilities from  
598 which, or the place where, the communications are to be  
599 intercepted.

600 3. A particular description of the type of communications  
601 sought to be intercepted.

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

604 (c) A full and complete statement as to whether or not  
605 other investigative procedures have been tried and failed or why  
606 they reasonably appear to be unlikely to succeed if tried or to  
607 be too dangerous.

608 (d) A statement of the period of time for which the  
609 interception is required to be maintained and, if the nature of

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610 the investigation is such that the authorization for  
611 interception should not automatically terminate when the  
612 described type of communication has been first obtained, a  
613 particular description of facts establishing probable cause to  
614 believe that additional communications of the same type will  
615 occur thereafter.

616 (e) A full and complete statement of the facts concerning  
617 all previous applications known to the individual authorizing  
618 and making the application, made to any judge for authorization  
619 to intercept, or for approval of interceptions of, wire, oral,  
620 or electronic communications involving any of the same persons,  
621 facilities, or places specified in the application, and the  
622 action taken by the judge on each such application.

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

627 (2) The judge may require the applicant to furnish  
628 additional testimony or documentary evidence in support of the  
629 application.

630 (3) Upon such application, the judge may authorize a search  
631 warrant ~~enter an~~ ~~ex parte~~ ~~order~~, as requested or as modified,  
632 authorizing or approving interception of wire, oral, or  
633 electronic communications within the territorial jurisdiction of  
634 the court in which the judge is sitting, and outside such  
635 jurisdiction but within the State of Florida in the case of a  
636 mobile interception device authorized by the judge within such  
637 jurisdiction, if the judge determines on the basis of the facts  
638 submitted by the applicant that:

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

642 (b) There is probable cause for belief that particular  
643 communications concerning that offense will be obtained through  
644 such interception.

645 (c) Normal investigative procedures have been tried and  
646 have failed or reasonably appear to be unlikely to succeed if  
647 tried or to be too dangerous.

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

654 (4) Each search warrant ~~order~~ authorizing or approving the  
655 interception of any wire, oral, or electronic communication  
656 shall specify:

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

659 (b) The nature and location of the communications  
660 facilities as to which, or the place where, authority to  
661 intercept is granted.

662 (c) A particular description of the type of communication  
663 sought to be intercepted and a statement of the particular  
664 offense to which it relates.

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

667 (e) The period of time during which such interception is

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668 authorized, including a statement as to whether or not the  
669 interception shall automatically terminate when the described  
670 communication has been first obtained.

671  
672 A search warrant ~~An order~~ authorizing the interception of a  
673 wire, oral, or electronic communication shall, upon the request  
674 of the applicant, direct that a provider of wire or electronic  
675 communication service, landlord, custodian, or other person  
676 shall furnish the applicant forthwith all information,  
677 facilities, and technical assistance necessary to accomplish the  
678 interception unobtrusively and with a minimum of interference  
679 with the services that such service provider, landlord,  
680 custodian, or person is according the person whose  
681 communications are to be intercepted. The obligation of a  
682 provider of wire, oral, or electronic communication service  
683 under such a search warrant ~~an order~~ may include, but is not  
684 limited to, conducting an in-progress trace during an  
685 interception, or providing other assistance to support the  
686 investigation as may be specified in the search warrant ~~order~~.  
687 Any provider of wire or electronic communication service,  
688 landlord, custodian, or other person furnishing such facilities  
689 or technical assistance shall be compensated therefor by the  
690 applicant for reasonable expenses incurred in providing such  
691 facilities or assistance.

692 (5) No search warrant ~~order~~ entered under this section may  
693 authorize or approve the interception of any wire, oral, or  
694 electronic communication for any period longer than is necessary  
695 to achieve the objective of the authorization or in any event  
696 longer than 30 days. Such 30-day period begins on the day on



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697 which the agent or officer of the law enforcement agency first  
698 begins to conduct an interception under the search warrant ~~order~~  
699 or 10 days after the search warrant is approved ~~order is~~  
700 ~~entered~~, whichever occurs earlier. Extensions of a search  
701 warrant ~~an order~~ may be granted but only upon application for an  
702 extension made in accordance with subsection (1) and upon the  
703 court making the findings required by subsection (3). The period  
704 of extension shall be no longer than the authorizing judge deems  
705 necessary to achieve the purposes for which it was granted and  
706 in no event for longer than 30 days. Every search warrant ~~order~~  
707 and extension thereof shall contain a provision that the  
708 authorization to intercept shall be executed as soon as  
709 practicable, shall be conducted in such a way as to minimize the  
710 interception of communications not otherwise subject to  
711 interception under ss. 934.03-934.09, and must terminate upon  
712 attainment of the authorized objective or in any event in 30  
713 days. If the intercepted communication is in code or foreign  
714 language and an expert in that foreign language or code is not  
715 reasonably available during the interception period,  
716 minimization may be accomplished as soon as practicable after  
717 such interception. An interception under ss. 934.03-934.09 may  
718 be conducted in whole or in part by government personnel or by  
719 an individual operating under a contract with the government,  
720 acting under the supervision of an agent or officer of the law  
721 enforcement agency authorized to conduct the interception.

722 (6) Whenever a search warrant ~~an order~~ authorizing  
723 interception is granted ~~entered~~ pursuant to ss. 934.03-934.09,  
724 the search warrant ~~order~~ may require reports to be made to the  
725 judge who issued the search warrant ~~order~~ showing what progress

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726 has been made toward achievement of the authorized objective and  
727 the need for continued interception. Such reports shall be made  
728 at such intervals as the judge may require.

729 (7) Notwithstanding any other provision of this chapter,  
730 any investigative or law enforcement officer specially  
731 designated by the Governor, the Attorney General, the statewide  
732 prosecutor, or a state attorney acting under this chapter, who  
733 reasonably determines that:

734 (a) An emergency exists that:

735 1. Involves immediate danger of death or serious physical  
736 injury to any person, the danger of escape of a prisoner, or  
737 conspiratorial activities threatening the security interest of  
738 the nation or state; and

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

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

745

746 may intercept such wire, oral, or electronic communication if an  
747 application for a search warrant ~~an order~~ approving the  
748 interception is made in accordance with this section within 48  
749 hours after the interception has occurred or begins to occur. In  
750 the absence of a search warrant ~~an order~~, such interception  
751 shall immediately terminate when the communication sought is  
752 obtained or when the application for the search warrant ~~order~~ is  
753 denied, whichever is earlier. If such application for approval  
754 is denied, or in any other case in which the interception is

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755 terminated without a search warrant ~~an order~~ having been issued,  
756 the contents of any wire, oral, or electronic communication  
757 intercepted shall be treated as having been obtained in  
758 violation of s. 934.03(4), and an inventory shall be served as  
759 provided for in paragraph (8)(e) on the person named in the  
760 application.

761 (8)(a) The contents of any wire, oral, or electronic  
762 communication intercepted by any means authorized by ss. 934.03-  
763 934.09 shall, if possible, be recorded on tape or wire or other  
764 comparable device. The recording of the contents of any wire,  
765 oral, or electronic communication under this subsection shall be  
766 kept in such a way as will protect the recording from editing or  
767 other alterations. Immediately upon the expiration of the period  
768 of the search warrant ~~order~~, or extensions thereof, such  
769 recordings shall be made available to the judge approving the  
770 search warrant ~~issuing such order~~ and sealed under his or her  
771 directions. Custody of the recordings shall be wherever the  
772 judge orders. They shall not be destroyed except upon an order  
773 of the issuing or denying judge, or that judge's successor in  
774 office, and in any event shall be kept for 10 years. Duplicate  
775 recordings may be made for use or disclosure pursuant to the  
776 provisions of s. 934.08(1) and (2) for investigations, or for  
777 purposes of discovery as required by law.

778 (b) The presence of the seal provided for by this  
779 subsection, or a satisfactory explanation for the absence  
780 thereof, shall be a prerequisite for the use or disclosure of  
781 the contents of any wire, oral, or electronic communication or  
782 evidence derived therefrom under s. 934.08(3), as required by  
783 federal law.

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784 (c) Applications made and search warrants ~~orders~~ granted  
785 under ss. 934.03-934.09 shall be sealed by the judge. Custody of  
786 the applications and search warrants ~~orders~~ shall be wherever  
787 the judge directs. As required by ~~federal~~ law, such applications  
788 and search warrants ~~orders~~ shall be disclosed only for purposes  
789 of discovery or upon a showing of good cause before a judge of  
790 competent jurisdiction and shall not be destroyed except on  
791 order of the issuing or denying judge, or that judge's successor  
792 in office, and in any event shall be kept for 10 years.

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

795 (e) Within a reasonable time but not later than 90 days  
796 after the termination of the period of a search warrant ~~an order~~  
797 or extensions thereof, the issuing or denying judge shall cause  
798 to be served on the persons named in the search warrant ~~order~~ or  
799 the application, and such other parties to intercepted  
800 communications as the judge may determine in his or her  
801 discretion to be in the interest of justice, an inventory which  
802 shall include notice of:

803 1. The fact of the approval of the search warrant ~~entry of~~  
804 ~~the order~~ or the application.

805 2. The date of the approval of the search warrant ~~entry~~ and  
806 the period of authorized, approved, or disapproved interception,  
807 or the denial of the application.

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

810

811 The judge, upon the filing of a motion, may make available to  
812 such person or the person's counsel for inspection such portions

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813 of the intercepted communications, applications, and search  
814 warrants ~~orders~~ as the judge determines to be in the interest of  
815 justice. On an ex parte showing of good cause to a judge of  
816 competent jurisdiction, the serving of the inventory required by  
817 this paragraph may be postponed.

818 (9) ~~As required by federal law,~~ The contents of any  
819 intercepted wire, oral, or electronic communication or evidence  
820 derived therefrom shall not be received in evidence or otherwise  
821 disclosed in any trial, hearing, or other proceeding unless each  
822 party, not less than 10 days before the trial, hearing, or  
823 proceeding, has been furnished with a copy of the search warrant  
824 ~~court order~~ and accompanying application under which the  
825 interception was authorized or approved. This 10-day period may  
826 be waived by the judge if he or she finds that it was not  
827 possible to furnish the party with the above information 10 days  
828 before the trial, hearing, or proceeding and that the party will  
829 not be prejudiced by the delay in receiving such information.

830 (10) (a) An ~~Any~~ aggrieved person before or in any trial,  
831 hearing, or proceeding in or before any court, department,  
832 officer, agency, regulatory body, or other authority may move to  
833 suppress the contents of any intercepted wire, oral, or  
834 electronic communication, or evidence derived therefrom, on the  
835 grounds that:

- 836 1. The communication was unlawfully intercepted;
- 837 2. The search warrant ~~order of authorization or approval~~  
838 under which it was intercepted is insufficient on its face; or
- 839 3. The interception was not made in conformity with the  
840 search warrant ~~order of authorization or approval~~.

841 (b) Except as otherwise provided in the applicable Florida

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842 Rules of Criminal Procedure, in a criminal matter:

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

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

850 3. The judge, upon the filing of such motion by the  
851 aggrieved person, may make available to the aggrieved person or  
852 his or her counsel for inspection such portions of the  
853 intercepted communication or evidence derived therefrom as the  
854 judge determines to be in the interest of justice.

855 (c) ~~(b)~~ In addition to any other right to appeal, the state  
856 shall have the right to appeal from an order granting a motion  
857 to suppress made under paragraph (a) or the denial of an  
858 application for a search warrant ~~an order of approval~~ if the  
859 attorney shall certify to the judge or other official granting  
860 such motion or denying such application that the appeal is not  
861 taken for purposes of delay. Such appeal shall be taken within  
862 30 days after the date the order was entered and shall be  
863 diligently prosecuted.

864 (d) ~~(e)~~ The remedies and sanctions described in ss. 934.03-  
865 934.10 with respect to the interception of electronic  
866 communications are the only judicial remedies and sanctions for  
867 violations of those sections involving such communications.

868 (11) The requirements of subparagraph (1)(b)2. and  
869 paragraph (3)(d) relating to the specification of the facilities  
870 from which, or the place where, the communication is to be

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871 intercepted do not apply if:

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

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

877 2. The application contains a full and complete statement  
878 as to why such specification is not practical and identifies the  
879 person committing the offense and whose communications are to be  
880 intercepted.

881 3. The judge finds that such specification is not  
882 practical.

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

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

888 2. The application identifies the person believed to be  
889 committing the offense and whose communications are to be  
890 intercepted and the applicant makes a showing that there is  
891 probable cause to believe that the person's actions could have  
892 the effect of thwarting interception from a specified facility  
893 or that the person whose communications are to be intercepted  
894 has removed, or is likely to remove, himself or herself to  
895 another judicial circuit within the state.

896 3. The judge finds that such showing has been adequately  
897 made.

898 4. The search warrant ~~order~~ authorizing or approving the  
899 interception is limited to interception only for such time as it

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900 is reasonable to presume that the person identified in the  
901 application is or was reasonably proximate to the instrument  
902 through which such communication will be or was transmitted.  
903

904 ~~Consistent with this paragraph, a judge of competent~~  
905 ~~jurisdiction may authorize interception within this state,~~  
906 ~~whether the interception is within or outside the court's~~  
907 ~~jurisdiction, if the application for the interception makes a~~  
908 ~~showing that some activity or conspiracy believed to be related~~  
909 ~~to, or in furtherance of, the criminal predicate for the~~  
910 ~~requested interception has occurred or will likely occur, or the~~  
911 ~~communication to be intercepted or expected to be intercepted is~~  
912 ~~occurring or will likely occur, in whole or in part, within the~~  
913 ~~jurisdiction of the court where the order is being sought.~~

914 (12) If an interception of a communication is to be carried  
915 out pursuant to subsection (11), such interception may not begin  
916 until the facilities from which, or the place where, the  
917 communication is to be intercepted is ascertained by the person  
918 implementing the interception search warrant ~~order~~. A provider  
919 of wire or electronic communications service that has received a  
920 search warrant ~~an order~~ as provided under paragraph (11)(b) may  
921 petition the court to modify or quash the search warrant ~~order~~  
922 on the ground that the interception cannot be performed in a  
923 timely or reasonable fashion. The court, upon notice to the  
924 state, shall decide such a petition expeditiously.

925 (13) Consistent with this section, a judge of competent  
926 jurisdiction may authorize interception within this state,  
927 whether the interception is within or outside the court's  
928 jurisdiction, if the application for the interception makes a



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929 showing that some activity or conspiracy believed to be related  
930 to, or in furtherance of, the criminal predicate for the  
931 requested interception has occurred or will likely occur, or the  
932 communication to be intercepted or expected to be intercepted is  
933 occurring or will likely occur, in whole or in part, within the  
934 jurisdiction of the court where the search warrant is being  
935 sought.

936 Section 9. Subsection (2) of section 934.10, Florida  
937 Statutes, is amended, and subsection (1) of that section is  
938 republished, to read:

939 934.10 Civil remedies.—

940 (1) Any person whose wire, oral, or electronic  
941 communication is intercepted, disclosed, or used in violation of  
942 ss. 934.03-934.09 shall have a civil cause of action against any  
943 person or entity who intercepts, discloses, or uses, or procures  
944 any other person or entity to intercept, disclose, or use, such  
945 communications and shall be entitled to recover from any such  
946 person or entity which engaged in that violation such relief as  
947 may be appropriate, including:

948 (a) Preliminary or equitable or declaratory relief as may  
949 be appropriate;

950 (b) Actual damages, but not less than liquidated damages  
951 computed at the rate of \$100 a day for each day of violation or  
952 \$1,000, whichever is higher;

953 (c) Punitive damages; and

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

956 (2) A good faith reliance on any of the following  
957 constitutes a complete defense to any civil, criminal, or

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958 administrative action arising out of such conduct under the laws  
 959 of this state:

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

962 (b) A request of an investigative or law enforcement  
 963 officer under s. 934.09(7);; or

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

967  
 968 ~~shall constitute a complete defense to any civil or criminal, or~~  
 969 ~~administrative action arising out of such conduct under the laws~~  
 970 ~~of this state.~~

971 Section 10. Section 934.21, Florida Statutes, is amended to  
 972 read:

973 934.21 Unlawful access to stored communications;  
 974 penalties.—

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

976 (a) Intentionally accesses without authorization a facility  
 977 through which an electronic communication service is provided,  
 978 or

979 (b) Intentionally exceeds an authorization to access such  
 980 facility,

981  
 982 and thereby obtains, alters, or prevents authorized access to a  
 983 wire or electronic communication while it is in electronic  
 984 storage in such system shall be punished as provided in  
 985 subsection (2).

986 (2) The punishment for an offense under subsection (1) is

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987 as follows:

988 (a) If the offense is committed for purposes of commercial  
989 advantage, malicious destruction or damage, or private  
990 commercial gain, the person ~~is~~:

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

994 2. In the case of any subsequent offense under this  
995 subsection, commits ~~guilty of~~ a felony of the third degree,  
996 punishable as provided in s. 775.082, s. 775.083, s. 775.084, or  
997 s. 934.41.

998 (b) In any other case, the person commits ~~is guilty of~~ a  
999 misdemeanor of the second degree, punishable as provided in s.  
1000 775.082 or s. 775.083.

1001 (3) Subsection (1) does not apply with respect to conduct  
1002 authorized:

1003 (a) By the person or entity providing a wire, oral, or  
1004 electronic communications service, including through cellular  
1005 phones, microphone-enabled household devices, or portable  
1006 electronic communication devices;

1007 (b) By a user of a wire, oral, or electronic communications  
1008 service, including through cellular phones, microphone-enabled  
1009 household devices, or portable electronic communication devices,  
1010 with respect to a communication of or intended for that user; ~~or~~

1011 (c) In s. 934.09, s. 934.23, or s. 934.24;

1012 (d) In chapter 933; or

1013 (e) For accessing for a legitimate business purpose  
1014 information that is not personally identifiable or that has been  
1015 collected in a way that prevents identification of the user of

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1016 the device.

1017 Section 11. Section 934.42, Florida Statutes, is amended to  
1018 read:

1019 934.42 Mobile tracking device and location tracking  
1020 authorization.—

1021 (1) As used in this section, the term:

1022 (a) "Mobile tracking device" means an electronic or  
1023 mechanical device that tracks the movement of a person or an  
1024 object.

1025 (b) "Real-time location tracking" means the:

1026 1. Installation and use of a mobile tracking device on the  
1027 object to be tracked;

1028 2. Acquisition of real-time cell-site location data; or

1029 3. Acquisition of real-time precise global positioning  
1030 system location data.

1031 (c) "Historical location data" means historical precise  
1032 global positioning system location data in the possession of a  
1033 provider.

1034 (2) ~~(1)~~ An investigative or law enforcement officer may make  
1035 application to a judge of competent jurisdiction for a search  
1036 warrant ~~an order~~ authorizing or approving real-time location  
1037 tracking or the acquisition of historical location data in the  
1038 possession of the provider ~~the installation and use of a mobile~~  
1039 tracking device.

1040 (3) ~~(2)~~ An application under subsection (2) ~~(1)~~ of this  
1041 section must include:

1042 (a) A statement of the identity of the applicant and the  
1043 identity of the law enforcement agency conducting the  
1044 investigation.

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1045 (b) A statement setting forth a reasonable period of time  
1046 the mobile tracking device may be used or the location data may  
1047 be obtained in real time, not to exceed 45 days from the date on  
1048 which the search warrant is issued. The court may, for good  
1049 cause, grant one or more extensions for a reasonable period of  
1050 time, not to exceed 45 days each. When seeking historical  
1051 location data, the applicant must specify a date range for the  
1052 data sought ~~certification by the applicant that the information~~  
1053 ~~likely to be obtained is relevant to an ongoing criminal~~  
1054 ~~investigation being conducted by the investigating agency.~~

1055 (c) A statement of the offense to which the information  
1056 likely to be obtained relates.

1057 (d) A statement as to whether it may be necessary to use  
1058 and monitor the mobile tracking device outside the jurisdiction  
1059 of the court from which authorization is being sought.

1060 ~~(4)-(3)~~ Upon application made as provided under subsection  
1061 ~~(3) -(2)~~, the court, if it finds probable cause ~~that the~~  
1062 ~~certification~~ and finds that the statements required by  
1063 subsection ~~(3) -(2)~~ have been made in the application, must grant  
1064 a search warrant ~~shall enter an ex parte order~~ authorizing real-  
1065 time location tracking or the acquisition of historical location  
1066 data ~~the installation and use of a mobile tracking device~~. Such  
1067 search warrant ~~order~~ may authorize the location tracking ~~use of~~  
1068 ~~the device~~ within the jurisdiction of the court and outside that  
1069 jurisdiction but within the State of Florida if the location  
1070 tracking device is initiated ~~installed~~ within the jurisdiction  
1071 of the court. The search warrant must command the investigative  
1072 or law enforcement officer to complete any initiation of the  
1073 location tracking or execution of the search warrant for

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1074 historical location data authorized by the search warrant within  
1075 a specified period of time not to exceed 10 calendar days.

1076 (5)(4) A court may not require greater specificity or  
1077 additional information beyond that which is required by law and  
1078 this section as a requisite for issuing a search warrant ~~an~~  
1079 order.

1080 (6) Within 10 days after the time period specified in  
1081 paragraph (3)(b) has ended, the investigative or law enforcement  
1082 officer executing a search warrant must return the search  
1083 warrant to the issuing judge. When the search warrant is  
1084 authorizing the acquisition of historical location data, the  
1085 investigative or law enforcement officer executing the search  
1086 warrant must return the search warrant to the issuing judge  
1087 within 10 days after receipt of the records. The investigative  
1088 or law enforcement officer may do so by reliable electronic  
1089 means.

1090 (7) Within 10 days after the time period specified in  
1091 paragraph (3)(b) has ended, the investigative or law enforcement  
1092 officer executing a search warrant must serve a copy of the  
1093 search warrant on the person who, or whose property, was  
1094 tracked. When the search warrant is authorizing the acquisition  
1095 of historical location data, the investigative or law  
1096 enforcement officer executing the search warrant must serve a  
1097 copy of the search warrant on the person whose data was obtained  
1098 within 10 days after receipt of the records. Service may be  
1099 accomplished by delivering a copy to the person who, or whose  
1100 property, was tracked or whose data was obtained or by leaving a  
1101 copy at the person's residence or usual place of abode with an  
1102 individual of suitable age and discretion who resides at that

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1103 location and by mailing a copy to the person's last known  
1104 address. Upon a showing of good cause to a court of competent  
1105 jurisdiction, the court may grant one or more postponements of  
1106 this notice for a period of 90 days each.

1107 (8)-(5) The standards established by Florida courts and the  
1108 United States Supreme Court for the installation, use, or and  
1109 monitoring of mobile tracking devices and the acquisition of  
1110 location data shall apply to the installation, use, or  
1111 monitoring and use of any device and the acquisition of location  
1112 data as authorized by this section.

1113 ~~(6) As used in this section, a "tracking device" means an~~  
1114 ~~electronic or mechanical device which permits the tracking of~~  
1115 ~~the movement of a person or object.~~

1116 (9) (a) Notwithstanding any other provision of this chapter,  
1117 any investigative or law enforcement officer specially  
1118 designated by the Governor, the Attorney General, the statewide  
1119 prosecutor, or a state attorney acting pursuant to this chapter  
1120 who reasonably determines that:

1121 1. An emergency exists which:

1122 a. Involves immediate danger of death or serious physical  
1123 injury to any person or the danger of escape of a prisoner; and

1124 b. Requires real-time location tracking before a search  
1125 warrant authorizing such tracking can, with due diligence, be  
1126 obtained; and

1127 2. There are grounds upon which a search warrant could be  
1128 issued under this chapter to authorize such tracking,

1129  
1130 may engage in real-time location tracking if, within 48 hours  
1131 after the tracking has occurred or begins to occur, a search

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1132 warrant approving the tracking is issued in accordance with this  
1133 section.

1134 (b) In the absence of an authorizing search warrant, such  
1135 tracking must immediately terminate when the information sought  
1136 is obtained, when the application for the search warrant is  
1137 denied, or when 48 hours have lapsed since the tracking began,  
1138 whichever is earlier.

1139 Section 12. For the purpose of incorporating the amendments  
1140 made by this act to sections 934.03 and 934.07, Florida  
1141 Statutes, in a reference thereto, paragraph (b) of subsection  
1142 (2) of section 934.22, Florida Statutes, is reenacted to read:

1143 934.22 Voluntary disclosure of customer communications or  
1144 records.—

1145 (2) A provider described in subsection (1) may divulge the  
1146 contents of a communication:

1147 (b) As otherwise authorized in s. 934.03(2)(a), s. 934.07,  
1148 or s. 934.23.

1149 Section 13. For the purpose of incorporating the amendments  
1150 made by this act to sections 934.09 and 934.21, Florida  
1151 Statutes, in references thereto, subsections (1) and (4) of  
1152 section 934.27, Florida Statutes, are reenacted to read:

1153 934.27 Civil action: relief; damages; defenses.—

1154 (1) Except as provided in s. 934.23(5), any provider of  
1155 electronic communication service, or subscriber or customer  
1156 thereof, aggrieved by any violation of ss. 934.21-934.28 in  
1157 which the conduct constituting the violation is engaged in with  
1158 a knowing or intentional state of mind may, in a civil action,  
1159 recover from the person or entity which engaged in that  
1160 violation such relief as is appropriate.



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1161 (4) A good faith reliance on any of the following is a  
1162 complete defense to any civil or criminal action brought under  
1163 ss. 934.21-934.28:

1164 (a) A court warrant or order, a subpoena, or a statutory  
1165 authorization, including, but not limited to, a request of an  
1166 investigative or law enforcement officer to preserve records or  
1167 other evidence, as provided in s. 934.23(7).

1168 (b) A request of an investigative or law enforcement  
1169 officer under s. 934.09(7).

1170 (c) A good faith determination that s. 934.03(3) permitted  
1171 the conduct complained of.

1172 Section 14. For the purpose of incorporating the amendment  
1173 made by this act to section 934.21, Florida Statutes, in a  
1174 reference thereto, subsection (6) of section 934.23, Florida  
1175 Statutes, is reenacted to read:

1176 934.23 Required disclosure of customer communications or  
1177 records.—

1178 (6) No cause of action shall lie in any court against any  
1179 provider of wire or electronic communication service, its  
1180 officers, employees, agents, or other specified persons for  
1181 providing information, facilities, or assistance in accordance  
1182 with the terms of a court order, warrant, subpoena, or  
1183 certification under ss. 934.21-934.28.

1184 Section 15. For the purpose of incorporating the amendment  
1185 made by this act to section 934.21, Florida Statutes, in  
1186 references thereto, subsections (6) and (7) of section 934.24,  
1187 Florida Statutes, are reenacted to read:

1188 934.24 Backup preservation; customer notification;  
1189 challenges by customer.—

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1190 (6) Within 14 days after notice by the investigative or law  
1191 enforcement officer to the subscriber or customer under  
1192 subsection (2), the subscriber or customer may file a motion to  
1193 quash the subpoena or vacate the court order seeking contents of  
1194 electronic communications, with copies served upon the  
1195 investigative or law enforcement officer and with written notice  
1196 of such challenge to the service provider. A motion to vacate a  
1197 court order must be filed in the court which issued the order. A  
1198 motion to quash a subpoena must be filed in the circuit court in  
1199 the circuit from which the subpoena issued. Such motion or  
1200 application must contain an affidavit or sworn statement:

1201 (a) Stating that the applicant is a subscriber or customer  
1202 of the service from which the contents of electronic  
1203 communications maintained for her or him have been sought, and

1204 (b) Stating the applicant's reasons for believing that the  
1205 records sought are not relevant to a legitimate law enforcement  
1206 inquiry or that there has not been substantial compliance with  
1207 the provisions of ss. 934.21-934.28 in some other respect.

1208 (7) Except as otherwise obtained under paragraph (3) (a),  
1209 service must be made under this section upon an investigative or  
1210 law enforcement officer by delivering or mailing by registered  
1211 or certified mail a copy of the papers to the person, office, or  
1212 department specified in the notice which the subscriber or  
1213 customer has received pursuant to ss. 934.21-934.28. For the  
1214 purposes of this subsection, the term "delivering" shall be  
1215 construed in accordance with the definition of "delivery" as  
1216 provided in Rule 1.080, Florida Rules of Civil Procedure.

1217 Section 16. For the purpose of incorporating the amendment  
1218 made by this act to section 934.21, Florida Statutes, in a

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1219 reference thereto, subsection (5) of section 934.25, Florida  
1220 Statutes, is reenacted to read:

1221 934.25 Delayed notice.—

1222 (5) Upon the expiration of the period of delay of  
1223 notification under subsection (1) or subsection (4), the  
1224 investigative or law enforcement officer must serve upon or  
1225 deliver by registered or first-class mail to the subscriber or  
1226 customer a copy of the process or request together with notice  
1227 which:

1228 (a) States with reasonable specificity the nature of the  
1229 law enforcement inquiry, and

1230 (b) Informs the subscriber or customer:

1231 1. That information maintained for such subscriber or  
1232 customer by the service provider named in the process or request  
1233 was supplied to or requested by the investigative or law  
1234 enforcement officer and the date on which such information was  
1235 so supplied or requested.

1236 2. That notification of such subscriber or customer was  
1237 delayed.

1238 3. What investigative or law enforcement officer or what  
1239 court made the certification or determination pursuant to which  
1240 that delay was made.

1241 4. Which provision of ss. 934.21-934.28 allowed such delay.

1242 Section 17. For the purpose of incorporating the amendment  
1243 made by this act to section 934.21, Florida Statutes, in a  
1244 reference thereto, section 934.28, Florida Statutes, is  
1245 reenacted to read:

1246 934.28 Exclusivity of remedies and sanctions.—The remedies  
1247 and sanctions described in ss. 934.21-934.27 are the only

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1248 judicial remedies and sanctions for violation of those sections.

1249 Section 18. This act shall take effect July 1, 2020.