

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Protecting Household Privacy Act.

6 Section 5. Definitions. As used in this Act:

7 "Electronic communication" means any origination,  
8 transmission, emission, transfer, or reception of signs,  
9 signals, data, writings, images, video, audio, or intelligence  
10 of any nature by telephone, including cellular telephones or a  
11 wire, Internet, wireless, radio, electromagnetic,  
12 photo-electronic or photo-optical system, cable television,  
13 fiber optic, satellite, microwave, Internet-based or wireless  
14 distribution network, system, facility or related technology.

15 "Household" means any single or multiple family dwelling,  
16 including but not limited to a single family home, house,  
17 apartment, mobile home, trailer, building, condominium,  
18 duplex, townhouse, or other living quarters, used or intended  
19 to be used as a dwelling place and immediately surrounding  
20 area.

21 "Household electronic device" means any device primarily  
22 intended for use within a household that is capable of  
23 facilitating any electronic communication, excluding personal

1 computing devices and digital gateway devices. For purposes of  
2 this Act: "personal computing device" means a personal  
3 computer, cell phone, smartphone, or tablet; and "digital  
4 gateway device" means a modem, router, wireless access point,  
5 or cable set-top box serviced by a cable provider.

6 "Household electronic data" means any information or input  
7 provided by a person to a household electronic device.

8 "Law enforcement agency" means any agency of this State or  
9 a political subdivision of this State which is vested by law  
10 with the duty to maintain public order and to enforce criminal  
11 laws.

12 Section 10. Prohibited use of household electronic data.  
13 Except as provided in Section 15, a law enforcement agency  
14 shall not obtain household electronic data or direct the  
15 acquisition of household electronic data from a private third  
16 party.

17 Section 15. Exceptions. This Act does not prohibit a law  
18 enforcement agency from obtaining household electronic data:

19 (1) If a law enforcement agency first obtains a warrant  
20 under Section 108-4 of the Code of Criminal Procedure of 1963.

21 (2) To respond to a call for emergency services concerning  
22 the user or possessor of a household electronic device.

23 (3) In an emergency situation:

24 (A) involving a clear and present danger of imminent

1 death or great bodily harm to a person or persons  
2 resulting from a kidnapping, abduction, or the holding of  
3 a hostage by force or the threat of the imminent use of  
4 force;

5 (B) where there was no previous notice of the  
6 emergency to the investigative or law enforcement officer  
7 sufficient to obtain prior judicial approval and the  
8 officer reasonably believes that an order permitting the  
9 obtaining of household electronic data would issue were  
10 there prior judicial review;

11 (C) the household electronic data is necessary and the  
12 only potential data available to prevent imminent death or  
13 great bodily harm to a person or persons; and

14 (D) the data must and can be accessed before a warrant  
15 could be issued to prevent imminent death or great bodily  
16 harm to a person or persons.

17 (4) With the lawful consent of the owner of the household  
18 electronic device or person in actual or constructive  
19 possession of the household electronic device, excluding law  
20 enforcement personnel.

21 (5) In all emergency cases arising under paragraph (2) or  
22 (3), an application for a search warrant approving the  
23 previous obtaining of household electronic data must be made  
24 within 72 hours of its commencement. In order to approve  
25 obtaining household electronic data, the judge must make a  
26 determination:

1           (A) that he or she would have granted a search warrant  
2           had the information been before the court prior to the  
3           obtaining of the household electronic data; and

4           (B) there was an emergency situation as defined in  
5           subparagraph (C) of paragraph (3).

6           If an application for approval under this paragraph is  
7           denied, the household electronic data obtained under this  
8           exception shall be inadmissible in accordance with Section 30.

9           Section 20. Information retention. If a law enforcement  
10          agency obtains household electronic data under paragraphs (1)  
11          through (3) of Section 15 and does not file criminal charges,  
12          the agency shall destroy all information obtained within 60  
13          days after obtaining the data, except that a supervisor at  
14          that agency may retain particular information if:

15          (1) there is reasonable suspicion that the information  
16          contains evidence of criminal activity; or

17          (2) the information is relevant to an ongoing  
18          investigation.

19          Section 25. Information disclosure by law enforcement  
20          agencies.

21          (a) If a law enforcement agency obtains household  
22          electronic data under Section 15, the agency shall not  
23          disclose any information obtained, except that a supervisor of  
24          that agency may disclose particular information to another

1 government agency, employee of a government agency, or  
2 material witness:

3 (1) if the information is relevant to a criminal  
4 proceeding or investigation by a grand jury; or

5 (2) with the lawful consent of the owner, or person in  
6 actual or constructive possession, of the household  
7 electronic device.

8 (b) When disclosing household electronic data to any other  
9 party, the disclosing law enforcement agency must make  
10 reasonable efforts to limit disclosure to the minimum  
11 necessary to accomplish the intended purpose of the  
12 disclosure.

13 Section 30. Admissibility. If the court finds by a  
14 preponderance of the evidence that a law enforcement agency  
15 obtained household electronic data pertaining to a person or  
16 his or her effects in violation of this Act, then the  
17 information shall be presumed to be inadmissible in any  
18 judicial or administrative proceeding. The State may overcome  
19 this presumption by proving the applicability of a judicially  
20 recognized exception to the exclusionary rule of the Fourth  
21 Amendment to the United States Constitution or Section 6 of  
22 Article I of the Illinois Constitution, or by a preponderance  
23 of the evidence that the law enforcement officer was acting in  
24 good faith and reasonably believed that one or more of the  
25 exceptions identified in Section 15 existed at the time the

1 household electronic data was obtained.

2 Section 35. Providing household electronic data to a law  
3 enforcement agency not required. Except as provided in  
4 Section 15, nothing in this Act shall be construed to require a  
5 person or entity to provide household electronic data to a law  
6 enforcement agency under this Act. If law enforcement acquires  
7 information from a household electronic device under Section  
8 15, any information so acquired is subject to Sections 20 and  
9 25.

10 Section 40. Security of production. Any person or entity  
11 that provides household electronic data in response to a  
12 request from any law enforcement agency under this Act shall  
13 take reasonable measures to ensure the confidentiality,  
14 integrity, and security of any household electronic data  
15 during transmission to any law enforcement agency, and to  
16 limit any production of household electronic data to  
17 information responsive to the law enforcement agency request.

18 Section 45. Limitation. Nothing in this Act shall be  
19 construed to apply to the interception, recording, wiretap, or  
20 other acquisition of electronic communications as they are  
21 transmitted in real time.

22 Section 50. Conflict with other laws. In the event of any

1 conflict between this Act and any applicable federal or State  
2 law, the requirement that establishes the higher standard for  
3 law enforcement to obtain information shall govern. Nothing in  
4 this Act prohibits the use of a lawful grand jury subpoena to  
5 obtain information which was obtainable by grand jury subpoena  
6 prior to the effective date of this Act.

7 Section 55. Liability. Nothing in this Act expands  
8 existing civil or criminal liability of an individual or  
9 entity arising under any applicable federal or State law.