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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1021, L.D. 1576, “An Act to Update the Laws Governing Electronic Device Information as Evidence”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 16 MRSA c. 3, sub-c. 10, headnote is amended to read:

SUBCHAPTER 10

~~PORTABLE~~ ELECTRONIC DEVICE CONTENT INFORMATION

Sec. 2. 16 MRSA §641, sub-§3-A is enacted to read:

3-A. Electronic device. "Electronic device" means an electronic device that enables access to, or use of, an electronic communication service or remote computing service.

Sec. 3. 16 MRSA §641, sub-§5, as enacted by PL 2013, c. 402, §1, is amended to read:

5. Owner. "Owner" means the person or entity having the legal title, claim or right to ~~a portable~~ an electronic device.

Sec. 4. 16 MRSA §641, sub-§6, as amended by PL 2019, c. 489, §5, is repealed.

Sec. 5. 16 MRSA §641, sub-§7, as enacted by PL 2013, c. 402, §1, is repealed and the following enacted in its place:

7. Remote computing service. "Remote computing service" means:

- A. The provision to the public over the Internet of on-demand computer storage; or
- B. Processing services provided by means of an electronic communication service.

Sec. 6. 16 MRSA §641, sub-§8, as enacted by PL 2013, c. 402, §1, is amended to read:

COMMITTEE AMENDMENT

1 **8. User.** "User" means a person or entity that uses a ~~portable~~ an electronic device.

2 **Sec. 7. 16 MRSA §642**, as amended by PL 2017, c. 144, §4, is further amended to
3 read:

4 **§642. Authority to obtain and disclose content information held by a provider of**
5 **electronic communication service or remote computing service**

6 **1. Authority to obtain.** A government entity may obtain ~~portable~~ electronic device
7 content information directly from a provider of electronic communication service or a
8 ~~provider of~~ remote computing service only in accordance with a valid search warrant issued
9 by a duly authorized justice, judge or justice of the peace using procedures established
10 pursuant to Title 15, section 55 or 56 or as otherwise provided in this subchapter.

11 **2. Authority to disclose.** A provider of electronic communication service or remote
12 computing service may disclose ~~portable~~ electronic device content information to a
13 government entity only pursuant to a warrant issued by a duly authorized justice, judge or
14 justice of the peace or as otherwise provided in this subchapter.

15 **Sec. 8. 16 MRSA §643, first ¶**, as amended by PL 2019, c. 489, §7, is further
16 amended to read:

17 Notice must be given to the owner or user of a ~~portable~~ an electronic device whose
18 content information was obtained by a government entity. The notice requirements of this
19 section do not apply if the government entity is unable to identify the owner or user of a
20 ~~portable~~ an electronic device.

21 **Sec. 9. 16 MRSA §643, sub-§3**, as enacted by PL 2013, c. 402, §1, is amended to
22 read:

23 **3. Preclusion of notice to owner or user subject to warrant for content**
24 **information.** A government entity acting under section 642 may include in its application
25 for a warrant a request for an order directing a provider of electronic communication service
26 or remote computing service to which a warrant is directed not to notify any other person
27 of the existence of the warrant. The court may issue the order if the court determines that
28 there is reason to believe that notification of the existence of the warrant will have an
29 adverse result.

30 **Sec. 10. 16 MRSA §644, sub-§1**, as amended by PL 2019, c. 489, §9, is further
31 amended to read:

32 **1. Consent of owner or user.** When disclosure of ~~portable~~ electronic device content
33 information is not prohibited by federal law, a government entity may obtain the
34 information without a warrant with the informed, affirmative consent of the owner or user
35 of the ~~portable~~ electronic device concerned, except when the device is known or believed
36 by the owner or user to be in the possession of a 3rd party authorized to possess the device
37 by the owner or user.

38 **Sec. 11. 16 MRSA §644, sub-§3**, as amended by PL 2019, c. 489, §9, is further
39 amended to read:

40 **3. Emergency.** When a government entity cannot, with due diligence, obtain a warrant
41 in time to address an emergency that involves or is believed to involve imminent danger of
42 death or serious physical injury to any person, a government entity may obtain the content

1 information from a ~~portable~~ an electronic device without a warrant, and a provider of
2 electronic communication service or remote computing service may disclose such
3 information to the requesting government entity without a warrant.'

4 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
5 number to read consecutively.

6 **SUMMARY**

7 This amendment strikes and replaces the bill. The amendment amends the provisions
8 of law that require state and local government entities to obtain a search warrant, unless
9 certain enumerated circumstances exist, before accessing information regarding the content
10 of portable electronic device communications. Under the amendment, these provisions of
11 law apply when state or local government entities seek to obtain content information
12 associated with any electronic device, including devices that are not portable. The
13 amendment also clarifies that these provisions of law apply when state and local
14 government entities seek to obtain electronic device content information stored by remote
15 computing services that provide Internet storage to the public, commonly referred to as
16 "cloud storage services."