

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
H.P. 1021 - L.D. 1576

An Act to Update the Laws Governing Electronic Device Information as Evidence

Be it enacted by the People of the State of Maine as follows:

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Sec. 4. 16 MRSA §641, sub-§6, as amended by PL 2019, c. 489, §5, is repealed.

Sec. 5. 16 MRSA §641, sub-§7, as enacted by PL 2013, c. 402, §1, is repealed and the following enacted in its place: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

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

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

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

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

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

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

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

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

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

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

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

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

3. Emergency. When a government entity cannot, with due diligence, obtain a warrant in time to address an emergency that involves or is believed to involve imminent danger of death or serious physical injury to any person, a government entity may obtain the content information from a ~~portable~~ an electronic device without a warrant, and a provider of

electronic communication service or remote computing service may disclose such information to the requesting government entity without a warrant.