§436. Permanent destruction of computer data on a computer used in the commission of a crime

1. If a person is convicted upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or found not criminally responsible of a violation of this Title, the State, after all appeal periods have run and those proceedings have concluded, may permanently destroy the computer data on any computer that was used to commit or facilitate the commission of that violation or cause the computer data to be permanently destroyed through the removal and destruction of any part of the computer in the possession of the State on which the computer data are stored.
[PL 2013, c. 297, §3 (NEW).]

2. Notwithstanding subsection 1, a criminal justice agency, prior to the destruction of computer data, may extract and provide computer data to a person if:

A. Prior to the conclusion of criminal prosecution in the matter involving the computer data, the person provides written notification to the criminal justice agency having custody of the computer on which the computer data are stored that the person is interested in obtaining that computer data; [PL 2013, c. 297, §3 (NEW).]

B. The person either has an ownership interest in the computer data or wants the computer data only for the sentimental value of the data. When computer data are requested only for the sentimental value of the data, the person must state such in a written affidavit; [PL 2013, c. 297, §3 (NEW).]

C. The computer data that are the subject of the person's request may be lawfully disseminated; [PL 2013, c. 297, §3 (NEW).]

D. The computer data that are the subject of the person's request are not confidential by law; [PL 2013, c. 297, §3 (NEW).]

E. The computer data that are the subject of the request are specifically identified by the person making the request. For the purposes of this paragraph, "specifically identified" means identified with reasonable precision and not merely categorically; [PL 2013, c. 297, §3 (NEW).]

F. The criminal justice agency, in the judgment of the chief officer of the agency, determines the agency has the technological expertise, resources and personnel available to accommodate the request or to cause the request to be accommodated. The chief officer of the agency may consider whether there is a 3rd-party vendor that can accommodate the request if the chief officer determines the agency cannot accommodate the request for reasons provided in this paragraph. The chief officer of the agency subject to the request shall refer the request to an appropriate 3rd-party vendor for processing upon receipt by the chief officer of the agency of full payment from the requestor for the amount charged by the vendor to accommodate the request for information; and [PL 2013, c. 297, §3 (NEW).]

G. Notwithstanding any provision of law to the contrary, the person requesting the computer data makes advance payment for the time and costs that the criminal justice agency estimates will be needed for the requested computer data to be extracted and provided by the agency or caused by the agency to be extracted and provided to the person. [PL 2013, c. 297, §3 (NEW).]

If the conditions identified in paragraphs A to G of this subsection are not met, the computer data that are the subject of the request may be permanently destroyed in accordance with subsection 1.

The chief officer of the criminal justice agency that is subject to a request under this subsection shall respond to the requestor within 60 days from the date the request was received by the chief officer. The chief officer's response must include but is not limited to what actions if any the agency will take regarding the computer data identified in the request.
[PL 2013, c. 297, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 297, §3 (NEW).

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