Amendment No. 1 to SB0487

Beavers
Signature of Sponsor

AMEND Senate Bill No. 487 House Bill No. 300*

by adding the following language as a new subdivision (1) in the amendatory language of SECTION 2 and by renumbering the existing subdivisions accordingly:

(1) "Electronic communications service" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system;

AND FURTHER AMEND by deleting the language "subsections (d) and (e)" in the directory language of SECTION 4 and by substituting instead the language "subsection (d)".

AND FURTHER AMEND by deleting subdivision (d)(2) of the amendatory language in SECTION 4 and by substituting instead the following:

(2) The offense described in subdivision (a)(4) shall not apply to an entity providing an electronic communications service to the public acting in the normal course of providing that service.

AND FURTHER AMEND by deleting subdivision (d)(3) of the amendatory language in SECTION 4 and by substituting instead the following:

(3)

(A) The service providers described in subdivision (d)(2) shall not be required to maintain any record not otherwise kept in the ordinary course of that service provider's business; provided, however, that if any electronic communications service provider operates a web site that offers a social network service and the electronic communications service provider provides services to consumers in this state, any log files and images or communications that have been sent, posted or displayed on the social network service's web site and maintained by the electronic communications service

provider shall be disclosed to any governmental entity responsible for enforcing subdivision (a)(4) only if the governmental entity:

(i) Obtains a warrant issued using this state's warrant procedures by a court of competent jurisdiction;

(ii) Obtains a court order for the disclosure under subdivision (d)(3)(C); or

(iii) Has the consent of the person who sent, posted or displayed any log files and images or communications on the social network service's web site maintained by the electronic communications service provider.

(B) No cause of action shall lie in any court against any provider of an electronic communications service, its officers, employees, agent, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order or warrant.

(C) A court order for disclosure under subdivision (d)(3)(A)(ii) may be issued by any court that is a court of competent jurisdiction and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of an electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court order shall not issue if prohibited by the law of this state. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order, if the information or records requested are unusually voluminous in nature or compliance with the order otherwise would cause an undue burden on the provider.

AND FURTHER AMEND by deleting the following language from subdivision (d)(1) of the amendatory language of SECTION 4 of the bill:

by a fine of one hundred dollars ($100), or twenty (20) hours of community service, without compensation, for charitable or governmental agencies, or both, as determined by the court.

and by substituting instead the following:

by up to thirty (30) hours of community service, without compensation, for charitable or governmental agencies as determined by the court.