

JAN 15 2014

A BILL FOR AN ACT

RELATING TO GOVERNMENTAL ACCESS TO STORED COMMUNICATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 803-47.6, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (a) and (b) to read:

4 "(a) A governmental entity may require the disclosure by a
5 provider of electronic communication service of the contents of
6 an electronic communication [~~that has been in electronic storage~~
7 ~~for one hundred and eighty days or less, where storage has taken~~
8 ~~place,~~] pursuant to a search warrant only. [~~A governmental~~
9 ~~entity may require the disclosure by a provider of electronic~~
10 ~~communication service of the contents of an electronic~~
11 ~~communication that has been in electronic storage for more than~~
12 ~~one hundred and eighty days by the means available under~~
13 ~~subsection (b) of this section.]~~

14 (b) A governmental entity may require a provider of remote
15 computing services to disclose the contents of any electronic
16 communication [~~to which this subsection is made applicable by~~
17 ~~subsection (c) of this section.~~



1 ~~(1) Without notice to the subscriber or customer, if a~~
2 ~~search warrant has been obtained; or~~
3 ~~(2) With prior notice to the subscriber or customer, if a~~
4 ~~court order for disclosure under subsection (d) of~~
5 ~~this section has been obtained; except that delayed~~
6 ~~notice may be authorized by the order.] pursuant to a~~
7 ~~search warrant only."~~

8 2. By amending subsections (d) and (e) to read:

9 "(d) (1) A provider of electronic communication service or
10 remote computing service may disclose a record or
11 other information pertaining to a subscriber to, or
12 customer of, the service (other than the contents of
13 any electronic communication) to any person other than
14 a governmental entity.

15 (2) A provider of electronic communication service or
16 remote computing service shall disclose a record or
17 other information pertaining to a subscriber to, or
18 customer of, the service (other than the contents of
19 an electronic communication) to a governmental entity
20 only when:

21 (A) Presented with a search warrant;



1 (B) Presented with a court order [~~for~~], which seeks
2 the disclosure [~~+~~] of transactional records, other
3 than real-time transactional records;

4 (C) The consent of the subscriber or customer to the
5 disclosure has been obtained; or

6 (D) Presented with an administrative subpoena
7 authorized by statute, an attorney general
8 subpoena, or a grand jury or trial subpoena,
9 which seeks the disclosure of information
10 concerning electronic communication, including
11 but not limited to the name, address, local and
12 long distance telephone billing records,
13 telephone number or other subscriber number or
14 identity, and length of service of a subscriber
15 to or customer of the service, and the types of
16 services the subscriber or customer utilized.

17 (3) A governmental entity receiving records or information
18 under this subsection is not required to provide
19 notice to a subscriber or customer.

20 (e) A court order for disclosure under subsection [~~(b)~~ or
21 ~~(c) of this section~~] (d) shall issue only if the governmental
22 entity demonstrates probable cause that the [~~contents of a wire~~



1 ~~or electronic communication, or]~~ records or other information
2 sought, constitute or relate to the fruits, implements, or
3 existence of a crime or are relevant to a legitimate law
4 enforcement inquiry. An order may be quashed or modified if,
5 upon a motion promptly made, the service provider shows that
6 compliance would be unduly burdensome because of the voluminous
7 nature of the information or records requested, or some other
8 stated reason establishing such a hardship."

9 SECTION 2. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 3. This Act shall take effect upon its approval.

12

INTRODUCED BY: *Anna Mercedes Kim*
BY REQUEST



S.B. NO. 2095

Report Title:

Honolulu Prosecutor's Package; Stored Communications;
Governmental Access

Description:

Requires law enforcement to obtain: (1) a search warrant to compel production of the contents of electronic communications; and (2) a court order to compel production of historical transactional records.

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