

PRELIMINARY STAFF MEASURE SUMMARY**CARRIER:**

Senate Committee on Judiciary

REVENUE: May have revenue impact, statement not yet issued**FISCAL: May have fiscal impact, statement not yet issued****SUBSEQUENT REFERRAL TO:****Action:****Vote:****Yeas:****Nays:****Exc.:****Prepared By:** Eric Deitrick, Counsel**Meeting Dates:** 3/17

WHAT THE MEASURE DOES: Prohibits service providers from disclosing communication content or records. Creates exceptions. Establishes procedure for public bodies to obtain search warrant for communication content or records. Limits the judicial admissibility of communication content or records unless procedures followed. Requires public bodies that obtain communication content or records to create annual report. Creates remedies. Defines terms.

ISSUES DISCUSSED:**EFFECT OF COMMITTEE AMENDMENT:**

BACKGROUND: Senate Bill 316 addresses the relationship between providers and consumers of electronic and remote computing services – such as cell phone service providers, internet service providers, cable service providers. The bill provides a regulatory framework on when and how “service providers” may disclose communication content or records.

Senate bill 316 prohibits “service providers” from disclosing communication content or records unless certain exceptions apply. As a technical matter, the service provider may make disclosures to the parties involved in the communication, as well as any entity involved in the relaying and transmitting of the communication. The service provider may make disclosures to the author of the communication or to anyone the author consents. The service provider may make disclosures to a public body if certain emergency circumstances exist. The service provider may make disclosures by following 18 U.S.C. 2258a. The service provider shall make disclosures if a public body obtains a warrant.

Senate Bill 316 establishes the procedures for obtaining a warrant. It establishes jurisdiction over any service provider doing business in this state under a contract or agreement with a resident of this state, so long as part of the contract or agreement is to be performed in this state. It requires the public body that obtains the communication content or records to notify the subscriber or customer. The notification must include a copy of the warrant, a statement about the nature of the inquiry, the communication content or records obtained, and the identity of the service provider. The court can delay notification in 90-day increments, if immediate notification would have an adverse result.

Senate Bill 316 makes compliance with its terms mandatory for judicial admissibility. The bill requires public bodies that obtain communication content or records to create an annual report. In addition, the bill provides judicial remedies for persons who have been harmed. Those remedies include injunctive relief, attorney fees, and damages.

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This summary has not been adopted or officially endorsed by action of the committee.