

**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 public bodies from obtaining location information of electronic devices without warrant. Prohibits service providers from disclosing communication content or communication records. Creates exceptions. Establishes procedures for public bodies to obtain search warrant for location information, communication content, or communication records. Limits the judicial admissibility of location information, communication content, or communication records, unless procedures followed. Requires notification to subscriber when public body obtains location information, communication content, or communication records. Requires public bodies that obtain location information, communication content, or communication records to create annual report. Creates remedies. Defines terms.

**ISSUES DISCUSSED:****EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** Senate Bill 640 addresses two separate issues – electronic device location information and permissible disclosures by service providers.

First, Senate Bill 640 prohibits public bodies from obtaining location information from electronic devices, unless a warrant exists or certain exceptions apply. Those exceptions include requests for emergency services, consent, a report the electronic device has been stolen, contraband within a correctional facility, and an emergency involving imminent danger of death or serious physical injury. If the public body obtains location information, it must provide notice to the subscriber including a copy of the warrant, a statement about the nature of the inquiry, the specific location information, and the identity of the service provider. The court can delay notification in 90-day increments if immediate notification would have an adverse result. The bill also requires public bodies that obtain location information to produce an annual report.

Second, Senate Bill 640 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. The bill prohibits service providers from disclosing communication content or records unless authorized by warrant or certain exceptions apply. The service provider must provide the disclosure if a public body obtains a warrant. The bill 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.

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

In addition, Senate Bill 640 authorizes service providers to disclose communication content or records when the disclosure is limited to the name and address of the customer; the subscriber consent; a discovery obligation in a judicial proceeding exists; or in response to a request from a public body in which an emergency involving imminent danger of death or serious physical injury to a person exists.

Senate Bill 640 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.