

CHAPTER 626A

PRIVACY OF COMMUNICATIONS

626A.05 Authorization for interception of wire or oral communications.

626A.10 Notice to defendant.

626A.06 Procedure for interception of wire or oral communications.

626A.11 Admissibility of intercepted evidence.

626A.05 AUTHORIZATION FOR INTERCEPTION OF WIRE OR ORAL COMMUNICATIONS.

Subdivision 1. **Application for warrant.** The attorney general or a county attorney of any county may make application as provided in section 626A.06, to a judge of the district court, of the court of appeals, or of the supreme court for a warrant authorizing or approving the interception of wire, electronic, or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made. No court commissioner shall issue a warrant under this chapter.

[For text of subd 2, see M.S.1992]

History: 1993 c 326 art 7 s 15

626A.06 PROCEDURE FOR INTERCEPTION OF WIRE OR ORAL COMMUNICATIONS.

[For text of subs 1 to 3, see M.S.1992]

Subd. 4. **The warrant.** Each warrant to intercept communications shall be directed to a law enforcement officer, commanding the officer to hold the recording of all intercepted communications conducted under said warrant in custody subject to the further order of the court issuing the warrant. The warrant shall contain the grounds for its issuance with findings, as to the existence of the matters contained in subdivision 1 and shall also specify:

(a) the identity of the person, if known, whose communications are to be intercepted and recorded;

(b) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted, and in the case of telephone or telegraph communications the general designation of the particular line or lines involved;

(c) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

(d) the identity of the law enforcement office or agency authorized to intercept the communications, the name of the officer or officers thereof authorized to intercept communications, and of the person authorizing the application;

(e) the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained;

(f) any other limitations on the interception of communications being authorized, for the protection of the rights of third persons;

(g) a statement that using, divulging, or disclosing any information concerning such application and warrant for intercepting communications is prohibited and that any violation is punishable by the penalties of this chapter;

(h) a statement that the warrant shall be executed as soon as practicable, shall be executed in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter and must terminate upon attainment of the authorized objective, or in any event in 30 days. The 30-day period begins on

the earlier of the day on which the investigative or law enforcement officer first begins to conduct an interception under the order or ten days after the order is received. In the event the intercepted communication is in a code or foreign language, and an expert in that foreign language or code is not reasonably available during the interception period, minimization may be accomplished as soon as practicable after such interception.

An order authorizing the interception of a wire, oral, or electronic communication under this chapter must, upon request of the applicant, direct that a provider of wire or electronic communication service, landlord, custodian, or other person shall furnish the applicant immediately all information, facilities, and technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the service provider, landlord, custodian, or person is according the person whose communications are to be intercepted. A provider of wire or electronic communication service, landlord, custodian, or other person furnishing facilities or technical assistance must be compensated by the applicant for reasonable expenses incurred in providing the facilities or assistance.

Denial of an application for a warrant to intercept communications or of an application for renewal of such warrant shall be by written order that shall include a statement as to the offense or offenses designated in the application, the identity of the official applying for the warrant and the name of the law enforcement office or agency.

[For text of subd 4a, see M.S.1992]

Subd. 5. Duration of warrant. No warrant entered under this section may authorize or approve the interception of any wire, electronic, or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than 30 days.

The effective period of any warrant for intercepting communications shall terminate immediately when any person named in the warrant has been charged with an offense specified in the warrant.

Subd. 6. Extensions. Any judge of the district court, of the court of appeals, or of the supreme court may grant extensions of a warrant, but only upon application for an extension made in accordance with subdivision 1 and the court making the findings required by subdivision 3. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than 30 days. In addition to satisfying the requirements of subdivision 1, an application for an extension of any warrant for intercepting communications shall also:

- (a) contain a statement that all interception of communications under prior warrants has been in compliance with this chapter;
- (b) contain a statement setting forth the results thus far obtained from the interception or a reasonable explanation of the failure to obtain results;
- (c) state the continued existence of the matters contained in subdivision 1; and
- (d) specify the facts and circumstances of the interception of communications under prior warrants which are relied upon by the applicant to show that such continued interception of communications is necessary and in the public interest.

[For text of subs 7 to 12, see M.S.1992]

History: 1993 c 326 art 7 s 16-18

626A.10 NOTICE TO DEFENDANT.

Subdivision 1. Notice of order. Within a reasonable time but not later than 90 days after the termination of the period of a warrant or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the warrant and the application, and such other parties to intercepted communications as the judge may determine that is in the interest of justice, an inventory which shall include notice of:

- (1) the fact of the issuance of the warrant or the application;
- (2) the date of the issuance and the period of authorized, approved or disapproved interception, or the denial of the application; and
- (3) the fact that during the period wire, electronic, or oral communications were or were not intercepted.

On an ex parte showing to a court of competent jurisdiction that there is a need to continue the investigation and that the investigation would be harmed by service of the inventory at this time, service of the inventory required by this subdivision may be postponed for an additional 90-day period.

[For text of subd 2, see M.S.1992]

History: 1993 c 326 art 7 s 19

626A.11 ADMISSIBILITY OF INTERCEPTED EVIDENCE.

Subdivision 1. **Illegally obtained evidence inadmissible.** Evidence obtained by any act of intercepting wire, oral, or electronic communications, in violation of section 626A.02, and all evidence obtained through or resulting from information obtained by any such act, shall be inadmissible for any purpose in any action, proceeding, or hearing; provided, however, that: (1) any such evidence shall be admissible in any civil or criminal action, proceeding, or hearing against the person who has, or is alleged to have, violated this chapter; and (2) any evidence obtained by a lawfully executed warrant to intercept wire, oral, or electronic communications issued by a federal court or by a court of competent jurisdiction of another state shall be admissible in any civil or criminal proceeding.

[For text of subds 2 to 4, see M.S.1992]

History: 1993 c 326 art 7 s 20