

626A.28 REQUIREMENTS FOR GOVERNMENTAL ACCESS.

Subdivision 1. **Contents of electronic communications in electronic storage.** A governmental entity may require the disclosure by a provider of electronic communication service of the contents of an electronic communication that is in electronic storage in an electronic communications system for 180 days or less only under a warrant. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of an electronic communication that has been in electronic storage in an electronic communications system for more than 180 days by the means available under subdivision 2.

Subd. 2. **Contents of electronic communications in a remote computing service.** (a) A governmental entity may require a provider of remote computing service to disclose the contents of electronic communication to which this paragraph is made applicable by paragraph (b):

(1) without required notice to the subscriber or customer, if the governmental entity obtains a warrant; or

(2) with prior notice if the governmental entity:

(i) uses an administrative subpoena authorized by statute or a grand jury subpoena; or

(ii) obtains a court order for such disclosure under subdivision 4;

except that delayed notice may be given under section 626A.30.

(b) Paragraph (a) is applicable with respect to any electronic communication that is held or maintained on that service:

(1) on behalf of, and received by means of electronic transmission from, or created by means of computer processing of communications received by means of electronic transmission from, a subscriber or customer of such remote computing service; and

(2) solely for the purpose of providing storage or computer processing services to the subscriber or customer, if the provider is not authorized to access the contents of any communications for purposes of providing any services other than storage or computer processing.

Subd. 3. **Records concerning electronic communication service or remote computing service.** (a) Except as provided in paragraph (b) or chapter 325M, a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of the service, not including the contents of communications covered by subdivision 1 or 2, to any person other than a governmental entity.

(b) A provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of the service, not including the contents of communications covered by subdivision 1 or 2, to a governmental entity only when the governmental entity:

(1) uses an administrative subpoena authorized by statute, or a grand jury subpoena;

(2) obtains a warrant;

(3) obtains a court order for such disclosure under subdivision 4; or

(4) has the consent of the subscriber or customer to the disclosure.

(c) A governmental entity receiving records or information under this subdivision is not required to provide notice to a subscriber or customer.

[See Note.]

Subd. 4. **Requirements for court order.** A court order for disclosure under subdivision 2 or 3 must issue only if the governmental entity shows that there is reason to believe the contents of a wire or electronic communication, or the records or other information sought, are relevant to a legitimate law enforcement inquiry. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify such order, if the information or records requested are unusually voluminous in nature or compliance with such order otherwise would cause an undue burden on such provider.

Subd. 5. **No cause of action against a provider disclosing certain information.** No cause of action lies in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, or certification under sections 626A.26 to 626A.34.

History: 1988 c 577 s 49,62; 1989 c 336 art 2 s 8; 2002 c 395 art 1 s 10

NOTE: The amendment to subdivision 3 by Laws 2002, chapter 395, article 1, section 10, adding the cross reference to chapter 325M, is effective March 1, 2003, and expires on the effective date of federal legislation that preempts state regulation of the release of personally identifiable information by Internet service providers. Laws 2002, chapter 395, article 1, section 11.