

- (1) by the person or entity providing a wire or electronic communications service;
- (2) by a user of that service with respect to a communication of or intended for that user; or
- (3) in section 2703, 2704 or 2518 of this title.

(Added Pub. L. 99-508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1860; amended Pub. L. 103-322, title XXXIII, § 330016(1)(K), (U), Sept. 13, 1994, 108 Stat. 2147, 2148; Pub. L. 104-294, title VI, § 601(a)(3), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107-296, title II, § 225(j)(2), Nov. 25, 2002, 116 Stat. 2158.)

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-296, § 225(j)(2)(A), in introductory provisions, inserted “, or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State” after “commercial gain”.

Subsec. (b)(1)(A). Pub. L. 107-296, § 225(j)(2)(B), substituted “5 years” for “one year”.

Subsec. (b)(1)(B). Pub. L. 107-296, § 225(j)(2)(C), substituted “10 years” for “two years”.

Subsec. (b)(2). Pub. L. 107-296, § 225(j)(2)(D), added par. (2) and struck out former par. (2) which read as follows: “a fine under this title or imprisonment for not more than six months, or both, in any other case.”

1996—Subsec. (b)(1)(A), (2). Pub. L. 104-294 substituted “fine under this title” for “fine of under this title”.

1994—Subsec. (b)(1)(A). Pub. L. 103-322, § 330016(1)(U), substituted “under this title” for “not more than \$250,000”.

Subsec. (b)(2). Pub. L. 103-322, § 330016(1)(K), substituted “under this title” for “not more than \$5,000”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

EFFECTIVE DATE

Pub. L. 99-508, title II, § 202, Oct. 21, 1986, 100 Stat. 1868, provided that: “This title and the amendments made by this title [enacting this chapter] shall take effect ninety days after the date of the enactment of this Act [Oct. 21, 1986] and shall, in the case of conduct pursuant to a court order or extension, apply only with respect to court orders or extensions made after this title takes effect.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-618, § 1, Nov. 5, 1988, 102 Stat. 3195, provided that: “This Act [enacting section 2710 of this title and renumbering former section 2710 as 2711 of this title] may be cited as the ‘Video Privacy Protection Act of 1988’.”

§ 2702. Voluntary disclosure of customer communications or records

(a) PROHIBITIONS.—Except as provided in subsection (b) or (c)—

(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

(A) 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 service;

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

(3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.

(b) EXCEPTIONS FOR DISCLOSURE OF COMMUNICATIONS.—A provider described in subsection (a) may divulge the contents of a communication—

(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

(2) as otherwise authorized in section 2517, 2511(2)(a), or 2703 of this title;

(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

(6) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 2258A;

(7) to a law enforcement agency—

(A) if the contents—

(i) were inadvertently obtained by the service provider; and

(ii) appear to pertain to the commission of a crime; or

[(B) Repealed. Pub. L. 108-21, title V, § 508(b)(1)(A), Apr. 30, 2003, 117 Stat. 684]

(8) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.

(c) EXCEPTIONS FOR DISCLOSURE OF CUSTOMER RECORDS.—A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))—

(1) as otherwise authorized in section 2703;

(2) with the lawful consent of the customer or subscriber;

(3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

(4) to a governmental entity, if the provider, in good faith, believes that an emergency in-

volving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency;

(5) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 2258A; or

(6) to any person other than a governmental entity.

(d) REPORTING OF EMERGENCY DISCLOSURES.—On an annual basis, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report containing—

(1) the number of accounts from which the Department of Justice has received voluntary disclosures under subsection (b)(8); and

(2) a summary of the basis for disclosure in those instances where—

(A) voluntary disclosures under subsection (b)(8) were made to the Department of Justice; and

(B) the investigation pertaining to those disclosures was closed without the filing of criminal charges.

(Added Pub. L. 99-508, title II, § 201[(a)], Oct. 21, 1986, 100 Stat. 1860; amended Pub. L. 100-690, title VII, § 7037, Nov. 18, 1988, 102 Stat. 4399; Pub. L. 105-314, title VI, § 604(b), Oct. 30, 1998, 112 Stat. 2984; Pub. L. 107-56, title II, § 212(a)(1), Oct. 26, 2001, 115 Stat. 284; Pub. L. 107-296, title II, § 225(d)(1), Nov. 25, 2002, 116 Stat. 2157; Pub. L. 108-21, title V, § 508(b), Apr. 30, 2003, 117 Stat. 684; Pub. L. 109-177, title I, § 107(a), (b)(1), (c), Mar. 9, 2006, 120 Stat. 202, 203; Pub. L. 110-401, title V, § 501(b)(2), Oct. 13, 2008, 122 Stat. 4251.)

AMENDMENTS

2008—Subsecs. (b)(6), (c)(5). Pub. L. 110-401 substituted “section 2258A” for “section 227 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13032)”.

2006—Subsec. (a). Pub. L. 109-177, § 107(c), inserted “or (c)” after “Except as provided in subsection (b)”.

Subsec. (b)(8). Pub. L. 109-177, § 107(b)(1)(A), struck out “Federal, State, or local” before “governmental entity”.

Subsec. (c)(4). Pub. L. 109-177, § 107(b)(1)(B), added par. (4) and struck out former par. (4) which read as follows: “to a governmental entity, if the provider reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information;”.

Subsec. (d). Pub. L. 109-177, § 107(a), added subsec. (d). 2003—Subsec. (b)(5). Pub. L. 108-21, § 508(b)(1)(C), which directed amendment of par. (5) by striking “or” at the end, could not be executed because “or” did not appear at the end. See 2002 Amendment note below.

Subsec. (b)(6). Pub. L. 108-21, § 508(b)(1)(D), added par. (6). Former par. (6) redesignated (7).

Subsec. (b)(6)(B). Pub. L. 108-21, § 508(b)(1)(A), struck out subpar. (B) which read as follows: “if required by section 227 of the Crime Control Act of 1990; or”.

Subsec. (b)(7), (8). Pub. L. 108-21, § 508(b)(1)(B), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (c)(5), (6). Pub. L. 108-21, § 508(b)(2), added par. (5) and redesignated former par. (5) as (6).

2002—Subsec. (b)(5). Pub. L. 107-296, § 225(d)(1)(A), struck out “or” at end.

Subsec. (b)(6)(A). Pub. L. 107-296, § 225(d)(1)(B), inserted “or” at end.

Subsec. (b)(6)(C). Pub. L. 107-296, § 225(d)(1)(C), struck out subpar. (C) which read as follows: “if the provider reasonably believes that an emergency involving imme-

diately danger of death or serious physical injury to any person requires disclosure of the information without delay.”

Subsec. (b)(7). Pub. L. 107-296, § 225(d)(1)(D), added par. (7).

2001—Pub. L. 107-56, § 212(a)(1)(A), substituted “Voluntary disclosure of customer communications or records” for “Disclosure of contents” in section catchline.

Subsec. (a)(3). Pub. L. 107-56, § 212(a)(1)(B), added par. (3).

Subsec. (b). Pub. L. 107-56, § 212(a)(1)(C), substituted “Exceptions for disclosure of communications” for “Exceptions” in heading and “A provider described in subsection (a)” for “A person or entity” in introductory provisions.

Subsec. (b)(6)(C). Pub. L. 107-56, § 212(a)(1)(D), added subpar. (C).

Subsec. (c). Pub. L. 107-56, § 212(a)(1)(E), added subsec. (c).

1998—Subsec. (b)(6). Pub. L. 105-314 amended par. (6) generally. Prior to amendment, par. (6) read as follows: “to a law enforcement agency, if such contents—

“(A) were inadvertently obtained by the service provider; and

“(B) appear to pertain to the commission of a crime.”

1988—Subsec. (b)(2). Pub. L. 100-690 substituted “2517” for “2516”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-296 effective 60 days after Nov. 25, 2002, see section 4 of Pub. L. 107-296, set out as an Effective Date note under section 101 of Title 6, Domestic Security.

§ 2703. Required disclosure of customer communications or records

(a) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—A governmental entity may require the disclosure by a provider of electronic communication service of the contents of a wire or electronic communication, that is in electronic storage in an electronic communications system for one hundred and eighty days or less, only pursuant to a warrant issued using the procedures described in the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures) by a court of competent jurisdiction. A governmental entity may require the disclosure by a provider of electronic communications services of the contents of a wire or electronic communication that has been in electronic storage in an electronic communications system for more than one hundred and eighty days by the means available under subsection (b) of this section.

(b) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN A REMOTE COMPUTING SERVICE.—(1) A governmental entity may require a provider of remote computing service to disclose the contents of any wire or electronic communication to which this paragraph is made applicable by paragraph (2) of this subsection—

(A) without required notice to the subscriber or customer, if the governmental entity obtains a warrant issued using the procedures described in the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures) by a court of competent jurisdiction; or

(B) with prior notice from the governmental entity to the subscriber or customer if the governmental entity—