

II, § 201(b)(2), Oct. 25, 1994, 108 Stat. 4290; Pub. L. 107-56, title II, § 216(c)(5), (6), Oct. 26, 2001, 115 Stat. 290.)

REFERENCES IN TEXT

The Communications Assistance for Law Enforcement Act, referred to in subsec. (f), is title I of Pub. L. 103-414, Oct. 25, 1994, 108 Stat. 4279, which is classified generally to subchapter I (§1001 et seq.) of chapter 9 of Title 47, Telecommunications. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 47 and Tables.

AMENDMENTS

2001—Subsec. (b). Pub. L. 107-56, § 216(c)(6), inserted “or other facility” after “the appropriate line”.

Subsec. (d). Pub. L. 107-56, § 216(c)(5), struck out “the terms of” before “a court order”.

1994—Subsec. (f). Pub. L. 103-414 added subsec. (f).

1990—Subsec. (b). Pub. L. 101-647 substituted “section 3123(b)” for “subsection 3123(b)”.

1988—Subsec. (b). Pub. L. 100-690, §§ 7040, 7092(d), inserted “, pursuant to subsection 3123(b) or section 3125 of this title,” after “shall be furnished” and “order” after last reference to “court”.

Subsec. (d). Pub. L. 100-690, § 7092(b)(1), inserted “or request pursuant to section 3125 of this title” after “this chapter”.

Subsec. (e). Pub. L. 100-690, § 7092(b)(2), inserted “under this chapter, a request pursuant to section 3125 of this title” after “court order”.

ASSISTANCE TO LAW ENFORCEMENT AGENCIES

Pub. L. 107-56, title II, § 222, Oct. 26, 2001, 115 Stat. 292, provided that: “Nothing in this Act [see Short Title of 2001 Amendment note set out under section 1 of this title] shall impose any additional technical obligation or requirement on a provider of a wire or electronic communication service or other person to furnish facilities or technical assistance. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to section 216 [amending this section and sections 3121, 3123, and 3127 of this title] shall be reasonably compensated for such reasonable expenditures incurred in providing such facilities or assistance.”

§ 3125. Emergency pen register and trap and trace device installation

(a) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

(1) an emergency situation exists that involves—

(A) immediate danger of death or serious bodily injury to any person;

(B) conspiratorial activities characteristic of organized crime;

(C) an immediate threat to a national security interest; or

(D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year;

that requires the installation and use of a pen register or a trap and trace device before an

order authorizing such installation and use can, with due diligence, be obtained, and

(2) there are grounds upon which an order could be entered under this chapter to authorize such installation and use;

may have installed and use a pen register or trap and trace device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with section 3123 of this title.

(b) In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

(c) The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to subsection (a) without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter.

(d) A provider of a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

(Added Pub. L. 100-690, title VII, § 7092(a)(2), Nov. 18, 1988, 102 Stat. 4410; amended Pub. L. 103-322, title XXXIII, § 330008(3), Sept. 13, 1994, 108 Stat. 2142; Pub. L. 104-294, title VI, § 601(f)(5), Oct. 11, 1996, 110 Stat. 3499; Pub. L. 107-296, title II, § 225(i), Nov. 25, 2002, 116 Stat. 2158.)

PRIOR PROVISIONS

A prior section 3125 was renumbered section 3126 of this title.

AMENDMENTS

2002—Subsec. (a)(1)(C), (D). Pub. L. 107-296 added subpars. (C) and (D).

1996—Subsec. (a). Pub. L. 104-294 struck out closing quotation mark at end.

1994—Subsec. (a). Pub. L. 103-322, § 330008(3)(A), (B), substituted “use;” for “use” in par. (2) and directed that matter beginning with “may have installed” and ending with “section 3123 of this title” be realigned so that it is flush to the left margin, which was executed to text containing a period after “section 3123 of this title”, to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 103-322, § 330008(3)(C), substituted “provider of” for “provider for”.

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.

§ 3126. Reports concerning pen registers and trap and trace devices

The Attorney General shall annually report to Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice, which report shall include information concerning—

(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

- (2) the offense specified in the order or application, or extension of an order;
- (3) the number of investigations involved;
- (4) the number and nature of the facilities affected; and
- (5) the identity, including district, of the applying investigative or law enforcement agency making the application and the person authorizing the order.

(Added Pub. L. 99-508, title III, §301(a), Oct. 21, 1986, 100 Stat. 1871, §3125; renumbered §3126, Pub. L. 100-690, title VII, §7092(a)(1), Nov. 18, 1988, 102 Stat. 4410; amended Pub. L. 106-197, §3, May 2, 2000, 114 Stat. 247.)

PRIOR PROVISIONS

A prior section 3126 was renumbered section 3127 of this title.

AMENDMENTS

2000—Pub. L. 106-197 substituted “, which report shall include information concerning—” and pars. (1) to (5) for period at end.

1988—Pub. L. 100-690 renumbered section 3125 of this title as this section.

REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER SECTION 3123

Pub. L. 107-273, div. A, title III, §305(a), Nov. 2, 2002, 116 Stat. 1782, provided that: “At the same time that the Attorney General submits to Congress the annual reports required by section 3126 of title 18, United States Code, that are respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, on the number of orders under section 3123 applied for by law enforcement agencies of the Department of Justice whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program), which report shall include information concerning—

- “(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;
- “(2) the offense specified in the order or application, or extension of an order;
- “(3) the number of investigations involved;
- “(4) the number and nature of the facilities affected;
- “(5) the identity of the applying investigative or law enforcement agency making the application for an order; and
- “(6) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.”

§ 3127. Definitions for chapter

As used in this chapter—

- (1) the terms “wire communication”, “electronic communication”, “electronic communication service”, and “contents” have the meanings set forth for such terms in section 2510 of this title;
- (2) the term “court of competent jurisdiction” means—
 - (A) any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals that—
 - (i) has jurisdiction over the offense being investigated;

- (ii) is in or for a district in which the provider of a wire or electronic communication service is located;

- (iii) is in or for a district in which a landlord, custodian, or other person subject to subsections (a) or (b) of section 3124 of this title is located; or

- (iv) is acting on a request for foreign assistance pursuant to section 3512 of this title; or

- (B) a court of general criminal jurisdiction of a State authorized by the law of that State to enter orders authorizing the use of a pen register or a trap and trace device;

- (3) the term “pen register” means a device or process which records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, provided, however, that such information shall not include the contents of any communication, but such term does not include any device or process used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device or process used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business;

- (4) the term “trap and trace device” means a device or process which captures the incoming electronic or other impulses which identify the originating number or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, provided, however, that such information shall not include the contents of any communication;

- (5) the term “attorney for the Government” has the meaning given such term for the purposes of the Federal Rules of Criminal Procedure; and

- (6) the term “State” means a State, the District of Columbia, Puerto Rico, and any other possession or territory of the United States.

(Added Pub. L. 99-508, title III, §301(a), Oct. 21, 1986, 100 Stat. 1871, §3126; renumbered §3127, Pub. L. 100-690, title VII, §7092(a)(1), Nov. 18, 1988, 102 Stat. 4410; amended Pub. L. 107-56, title II, §216(c)(1)–(4), Oct. 26, 2001, 115 Stat. 290; Pub. L. 111-79, §2(3), Oct. 19, 2009, 123 Stat. 2087.)

REFERENCES IN TEXT

The Federal Rules of Criminal Procedure, referred to in par. (5), are set out in the Appendix to this title.

AMENDMENTS

2009—Par. (2)(A). Pub. L. 111-79 substituted “that—” and cls. (i) to (iv) for “having jurisdiction over the offense being investigated; or”.

2001—Par. (1). Pub. L. 107-56, §216(c)(4), struck out “and” after “‘electronic communication’,” and inserted “, and ‘contents’” after “‘electronic communication service’”.

Par. (2)(A). Pub. L. 107-56, §216(c)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: “a district court of the United States (including a magistrate judge of such a court) or a United States Court of Appeals; or”.