

# Senate Bill 514

Sponsored by Senator KNOPP, Representative BUEHLER

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires public body to have warrant to obtain, from provider of electronic communication service or remote computing service, contents of communication stored or transmitted by provider or any information pertaining to subscriber or customer of provider. Creates exception.

## A BILL FOR AN ACT

1  
2 Relating to privacy.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 4 of this 2015 Act:**

5 (1) **"Adverse result" means:**

6 (a) **Endangering the life or physical safety of a person;**

7 (b) **Fleeing from prosecution;**

8 (c) **Destroying or tampering with evidence of an offense;**

9 (d) **Intimidating potential witnesses to an offense; or**

10 (e) **Seriously jeopardizing an investigation of an offense or unduly delaying a trial.**

11 (2) **"Contents of a communication" means all information regarding the substance,**  
12 **meaning or purpose of a communication stored or transmitted by a service provider.**

13 (3) **"Public body" has the meaning given that term in ORS 174.109.**

14 (4) **"Service provider" means the provider of:**

15 (a) **Any electronic communication service, as defined in 18 U.S.C. 2510 on the effective**  
16 **date of this 2015 Act; or**

17 (b) **Any remote computing service, as defined in 18 U.S.C. 2711 on the effective date of**  
18 **this 2015 Act.**

19 **SECTION 2. (1) Except as provided in subsection (3) of this section, a public body must**  
20 **have a warrant issued under ORS 133.525 to 133.703 to obtain from a service provider the**  
21 **contents of a communication stored or transmitted by the service provider or any informa-**  
22 **tion pertaining to a subscriber or customer of the service provider.**

23 (2) **A warrant issued as described in subsection (1) of this section may be served:**

24 (a) **Only on a service provider that is providing services to a resident of this state; and**

25 (b) **Only if the services are to be performed in this state.**

26 (3) **A public body is not required to have a warrant issued under ORS 133.525 to 133.703**  
27 **to obtain from a service provider the contents of a communication described in subsection**  
28 **(1) of this section if:**

29 (a) **The public body reasonably believes that an emergency involving imminent danger of**  
30 **death or serious physical injury to a person requires disclosure of the contents of the com-**  
31 **munication without delay;**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) The public body does not disclose any personally identifiable information that is un-  
 2 necessary to prevent the danger of death or serious physical injury; and

3 (c) The request is in writing and documents the factual basis for the belief that the  
 4 emergency exists and that disclosure must occur without delay.

5 **SECTION 3.** (1) The court shall indicate in a warrant issued as described in section 2 of  
 6 this 2015 Act a deadline for compliance by the service provider. The service provider is re-  
 7 quired to provide only the information described in the warrant and, except as provided in  
 8 subsection (2) of this section, shall produce all information described in the warrant not later  
 9 than the compliance deadline.

10 (2) A service provider responding to a warrant issued as described in section 2 of this  
 11 2015 Act may request an extension to the compliance deadline. The court shall grant a re-  
 12 quest for an extension if the court determines that circumstances justify the extension and:

13 (a) The public body that made application for the warrant agrees to the extension; or

14 (b) The court finds that the need for the extension outweighs the likelihood that the ex-  
 15 tension will cause an adverse result.

16 **SECTION 4.** (1) If a public body obtains the contents of a communication or any infor-  
 17 mation pertaining to a subscriber or customer of a service provider under section 2 of this  
 18 2015 Act, the public body shall provide to the subscriber or customer:

19 (a) A copy of the warrant, if applicable;

20 (b) A written notification that the contents of a communication or information pertaining  
 21 to the subscriber or customer was provided to the public body;

22 (c) The date on which the contents of the communication or information was provided;

23 (d) The contents of any communication provided;

24 (e) The nature of any information provided that pertains to the subscriber or customer;

25 (f) The identity of the service provider or other entity from which the contents of the  
 26 communication or information was obtained; and

27 (g) Whether delayed notification was ordered by a court under subsection (3) of this  
 28 section.

29 (2) Except as provided in subsection (3) of this section, the public body shall provide, or  
 30 shall make a good faith effort to provide, the information required by subsection (1) of this  
 31 section no later than three days after obtaining the contents of a communication or any in-  
 32 formation pertaining to a subscriber or customer of a service provider.

33 (3) A public body seeking to obtain the contents of a communication or any information  
 34 pertaining to a subscriber or customer of a service provider may request the court to issue  
 35 an order delaying the notification required by subsection (1) of this section. The court shall  
 36 issue a delayed notification order if the court determines that there is reason to believe that  
 37 immediate notification will have an adverse result. In the order, the court shall specify the  
 38 date by which the information described in subsection (1) of this section is provided.