



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB4257

Introduced 1/16/2024, by Rep. Anna Moeller

#### SYNOPSIS AS INTRODUCED:

725 ILCS 5/108-4.5 new

Amends the Code of Criminal Procedure of 1963. Establishes procedures for serving a search warrant upon foreign corporations that are electronic communication services and remote computing services allowing a search for records that are in the actual or constructive possession of a foreign corporation that provides electronic communication services or remote computing services to the general public, if those records would reveal: (1) the identity of the customers using those services; (2) data stored by, or on behalf of, the customer; (3) the customer's usage of those services; (4) the recipient or destination of communications sent to or from those customers; or (5) the content of those communications. Provides that, when properly served with a search warrant issued by an Illinois court, a foreign corporation subject to this provision shall provide to the applicant all records sought pursuant to that warrant within 8 business days of receipt, including those records maintained or located outside the State. Provides that a foreign corporation seeking to quash the warrant must seek relief from the court that issued the warrant within the time required for production of records. Provides that the issuing court shall hear and decide that motion no later than 8 days after the motion is filed. Provides that no cause of action shall lie against any foreign or Illinois corporation subject to this Section, its officers, employees, agents, or other specified persons for providing records, information, facilities, or assistance in accordance with the terms of a warrant issued pursuant to this provision. Provides that this provision does not apply to corporations that do not provide electronic communication services or remote computing services to the general public.

LRB103 34996 RLC 64902 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is  
5 amended by adding Section 108-4.5 as follows:

6 (725 ILCS 5/108-4.5 new)

7 Sec. 108-4.5. Foreign electronic communication services  
8 and remote computing services.

9 (a) In this Section:

10 "Adverse result" occurs when notification of the existence  
11 of a search warrant results in:

12 (1) danger to the life or physical safety of an  
13 individual;

14 (2) a flight from prosecution;

15 (3) the destruction of or tampering with evidence;

16 (4) the intimidation of potential witnesses; or

17 (5) serious jeopardy to an investigation or undue  
18 delay of a trial.

19 "Applicant" means a peace officer as defined in Section  
20 2-13 of the Criminal Code of 2012 to whom a search warrant is  
21 issued pursuant to this Section.

22 "Electronic communication services" and "remote computing  
23 services" shall be construed in accordance with 18 U.S.C. 2701

1 through 2711.

2 "Foreign corporation" has the meaning ascribed to it in  
3 Section 1.80 of the Business Corporation Act of 1983.

4 "Illinois corporation" means any corporation or other  
5 entity that is subject to Section 5.25 of the Business  
6 Corporation Act of 1983, excluding foreign corporations.

7 "Properly served" means that a search warrant has been  
8 delivered by hand, or in a manner reasonably allowing for  
9 proof of delivery if delivered by United States mail,  
10 overnight delivery service, or facsimile to a person or entity  
11 listed in Section 5.25 of the Business Corporation Act of 1983  
12 or covered by this Section.

13 (b) The following provisions apply to any search warrant  
14 issued under this Section allowing a search for records that  
15 are in the actual or constructive possession of a foreign  
16 corporation that provides electronic communication services or  
17 remote computing services to the general public, if those  
18 records would reveal:

19 (1) the identity of the customers using those  
20 services;

21 (2) data stored by, or on behalf of, the customer;

22 (3) the customer's usage of those services;

23 (4) the recipient or destination of communications  
24 sent to or from those customers; or

25 (5) the content of those communications.

26 (c) When properly served with a search warrant issued by

1 an Illinois court, a foreign corporation subject to this  
2 Section shall provide to the applicant, within 8 business days  
3 of receipt, all records sought pursuant to that warrant,  
4 including those records maintained or located outside this  
5 State.

6 (d) If the applicant makes a showing and the judge finds  
7 that failure to produce records within less than 8 business  
8 days would cause an adverse result, the warrant may require  
9 production of records within less than 8 business days. A  
10 court may reasonably extend the time required for production  
11 of the records upon finding that the foreign corporation has  
12 shown good cause for that extension and that an extension of  
13 time would not cause an adverse result.

14 (e) A foreign corporation seeking to quash the warrant  
15 must seek relief from the court that issued the warrant within  
16 the time required for production of records under this  
17 Section. The issuing court shall hear and decide that motion  
18 no later than 8 court days after the motion is filed.

19 (f) The foreign corporation shall verify the authenticity  
20 of records that it produces by providing a written affidavit  
21 or statement to that effect.

22 (g) An Illinois corporation that provides electronic  
23 communication services or remote computing services to the  
24 general public, when served with a warrant issued by another  
25 state to produce records that would reveal:

26 (1) the identity of the customers using those

1 services;

2 (2) data stored by, or on behalf of, the customer;

3 (3) the customer's usage of those services;

4 (4) the recipient or destination of communications  
5 sent to or from those customers; or

6 (5) the content of those communications, shall produce  
7 those records as if that warrant had been issued by an  
8 Illinois court.

9 (h) No cause of action shall lie against any foreign or  
10 Illinois corporation subject to this Section, its officers,  
11 employees, agents, or other specified persons for providing  
12 records, information, facilities, or assistance in accordance  
13 with the terms of a warrant issued pursuant to this Section.

14 (i) This Section does not apply to corporations that do  
15 not provide electronic communication services or remote  
16 computing services to the general public.