

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2498

AN ACT

AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 35; RELATING TO INTERNET SERVICE PROVIDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 44, Arizona Revised Statutes, is amended by adding
3 chapter 35, to read:

4 CHAPTER 35

5 INTERNET EVIDENCE FOR LAW ENFORCEMENT INVESTIGATIONS

6 ARTICLE 1. GENERAL PROVISIONS

7 44-7801. Internet access provider; record and evidence
8 preservation; criminal investigations; civil
9 penalty; definition

10 A. ON THE REQUEST OF A LAW ENFORCEMENT AGENCY, AN INTERNET ACCESS
11 PROVIDER SHALL TAKE ALL NECESSARY STEPS TO PRESERVE RECORDS AND OTHER
12 EVIDENCE IN ITS POSSESSION PENDING THE ISSUANCE OF AN ORDER OR OTHER LEGAL
13 PROCESS. THE INTERNET ACCESS PROVIDER SHALL COMPLY WITH THE REQUEST AS SOON
14 AS POSSIBLE FOLLOWING THE RECEIPT OF THE REQUEST. RECORDS REFERRED TO IN
15 THIS SUBSECTION SHALL BE RETAINED FOR NINETY DAYS. ON REQUEST OF THE LAW
16 ENFORCEMENT AGENCY WITHIN THE INITIAL NINETY DAY PERIOD, THE RETENTION PERIOD
17 SHALL BE EXTENDED FOR AN ADDITIONAL PERIOD OF NINETY DAYS.

18 B. WITHIN FIFTEEN BUSINESS DAYS AFTER RECEIVING APPROPRIATE LEGAL
19 PROCESS AS SET FORTH IN TITLE 13, CHAPTER 38, ARTICLE 8, AN INTERNET ACCESS
20 PROVIDER SHALL PROVIDE INFORMATION THAT IS IDENTIFIED IN 18 UNITED STATES
21 CODE SECTION 2703 THAT IS IN ITS POSSESSION, EXCEPT THAT IF THE INTERNET
22 ACCESS PROVIDER DEMONSTRATES TO THE REQUESTING LAW ENFORCEMENT AGENCY THAT,
23 FOR BONA FIDE TECHNICAL REASONS, IT CANNOT COMPLY WITH THE ORDER WITHIN
24 FIFTEEN BUSINESS DAYS AFTER THE REQUEST, IT SHALL MAKE EVERY REASONABLE
25 EFFORT TO COMPLY WITH THE REQUEST AS SOON AS REASONABLY POSSIBLE.

26 C. IN CONNECTION WITH ANY CRIMINAL INVESTIGATION RELATING TO A
27 DANGEROUS CRIME AGAINST CHILDREN AS DEFINED IN SECTION 13-604.01 OR THAT
28 INVOLVES IMMEDIATE DANGER OF DEATH OR SERIOUS BODILY INJURY, A LAW
29 ENFORCEMENT AGENCY IN THIS STATE MAY ISSUE A REQUEST, WITHOUT COMPULSORY
30 LEGAL PROCESS OR COURT ORDER, TO A DESIGNATED RECIPIENT OF THE INTERNET
31 ACCESS PROVIDER TO DISCLOSE, CONSISTENT WITH 18 UNITED STATES CODE SECTION
32 2702(b)(8) AND (c)(4), THE INFORMATION IDENTIFIED IN SUBSECTION B OF THIS
33 SECTION. THE INTERNET ACCESS PROVIDER SHALL RESPOND TO THE REQUEST
34 IMMEDIATELY OR, IF UNABLE TO IMMEDIATELY COMPLY, SHALL COMMUNICATE WITH THE
35 REQUESTING AGENCY TO DISCUSS THE NATURE OF THE REQUEST AND TO COORDINATE AN
36 APPROPRIATE RESPONSE.

37 D. THIS SECTION SHALL BE INTERPRETED IN A MANNER CONSISTENT WITH THE
38 REQUIREMENTS OF FEDERAL LAW THAT APPLY TO PROVIDERS OF AN ELECTRONIC
39 COMMUNICATIONS SERVICE, INCLUDING 18 UNITED STATES CODE SECTIONS 2701 THROUGH
40 2712 AND 42 UNITED STATES CODE SECTION 13032.

41 E. AN INTERNET ACCESS PROVIDER THAT INTENTIONALLY FAILS TO COMPLY WITH
42 THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF UP TO TWO THOUSAND FIVE HUNDRED
43 DOLLARS FOR EACH VIOLATION, EXCEPT THAT THE INTERNET ACCESS PROVIDER IS
44 SUBJECT TO A CIVIL PENALTY OF UP TO TEN THOUSAND DOLLARS FOR A THIRD OR

1 SUBSEQUENT VIOLATION OF THIS SECTION THAT OCCURS WITHIN A TWELVE MONTH
2 PERIOD. THE ATTORNEY GENERAL MAY ENFORCE THIS SECTION.

3 F. FOR THE PURPOSES OF THIS SECTION, "INTERNET ACCESS PROVIDER" MEANS
4 AN ENTITY THAT PROVIDES ELECTRONIC COMMUNICATIONS AS DEFINED IN 18 UNITED
5 STATES CODE SECTION 2510 OR REMOTE COMPUTING SERVICES AS DEFINED IN 18 UNITED
6 STATES CODE SECTION 2711 TO CUSTOMERS IN THIS STATE AND DOES NOT INCLUDE
7 NONINTERNET BASED COMMUNICATIONS.