

Bill Summary
1st Session of the 59th Legislature

Bill No.:	SB 35
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Bill Analysis

SB 35 creates the Electronic Communication and Device Privacy Act. The measure states that a government entity may compel an entity or person to produce electronic communication information only under certain circumstances enumerated by the measure. A government entity must produce a warrant, subpoena, a court order, a wiretap order, or, in cases of physically accessing a device, the consent of the owner. Government entities may also physically access a device if it believes there is an emergency, if it seized the device from an inmate, or if it believes the device is stolen.

The measure further requires warrants seeking access to electronic communication information to follow certain procedures. The warrant must describe what information is sought, provide for unrelated information to be sealed, and comply with federal and state law. The court or a petitioner may also require the search to include the appointment of a special master charged with ensuring that only information necessary to achieve the objective of the warrant and the destruction of unrelated information obtained in the search.

Service providers may voluntarily disclose electronic communication information or subscriber information when that disclosure is not otherwise prohibited by state or federal law, but that information must be destroyed by the governmental entity within ninety days of receiving it. A court order or reasonable belief that the information is related to an investigation of child pornography may allow the entity to preserve the information. Information obtained via an emergency will require the entity to file with the courts a request to preserve the information within three days of obtaining it. Procedures for requesting and obtaining warrants or obtaining electronic information in an emergency are specified. Electronic information obtained in violation of the act may be suppressed.

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