

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 444

By: Dahm

4
5
6 AS INTRODUCED

7 An Act relating to electronic data; defining terms;
8 prohibiting obtaining of certain data without a
9 search warrant; prohibiting use or disclosure of
10 certain data; requiring destruction of certain data;
11 providing exceptions; requiring certain notice;
12 providing for codification; and providing an
13 effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 181 of Title 13, unless there is
17 created a duplication in numbering, reads as follows:

18 As used in this act:

19 1. "Electronic communication service" means a service that
20 provides to users of the service the ability to send or receive wire
21 or electronic communications;

22 2. "Electronic device" means a device that enables access to or
23 use of an electronic communication service or remote computing
24 service;

1 3. "Government entity" means the state, a county, a
2 municipality, a higher education institution, a local district, a
3 special service district or any other political subdivision of the
4 state or an administrative subunit of any political subdivision,
5 including a law enforcement entity or any other investigative
6 entity, agency, department, division, bureau, board or commission,
7 or an individual acting or purporting to act for or on behalf of a
8 state or local agency;

9 4. "Remote computing service" means the provision of computer
10 storage or processing services by means of an electronic
11 communications system;

12 5. "Stored data" means data or records that are stored on an
13 electronic device that contains:

- 14 a. information revealing the identity of users of the
15 applicable service, device or program,
- 16 b. information about a user's use of the applicable
17 service, device or program,
- 18 c. information that identifies the recipient or
19 destination of a wire communication or electronic
20 communication sent to or by the user,
- 21 d. the content of a wire communication or electronic
22 communication sent to or by the user, or
- 23 e. any data, documents, files, or communications stored
24 by or on behalf of the user with the applicable

1 service provider or on the user's electronic device;
2 and

3 6. "Transmitted data" means data or records that are in the
4 possession, care, custody or control of a provider of an electronic
5 communications service or a remote computing service, that contains:

- 6 a. information revealing the identity of users of the
7 applicable service, device or program,
- 8 b. information about a user's use of the applicable
9 service, device or program,
- 10 c. information that identifies the recipient or
11 destination of a wire communication or electronic
12 communication sent to or by the user,
- 13 d. the content of a wire communication or electronic
14 communication sent to or by the user, or
- 15 e. any data, documents, files or communications stored by
16 or on behalf of the user with the applicable service
17 provider or on the user's electronic device.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 182 of Title 13, unless there is
20 created a duplication in numbering, reads as follows:

21 A. Except as provided in subsection B of this section, a
22 government entity may not obtain the stored data or transmitted data
23 of an electronic device without a search warrant issued by a court
24 upon probable cause. A government entity may not use, copy or

1 disclose for any purpose the stored data or transmitted data of an
2 electronic device that is not the subject of the warrant that is
3 collected as part of an effort to obtain the stored data or
4 transmitted data of the electronic device that is the subject of the
5 warrant. Such data shall be destroyed in an unrecoverable manner by
6 the government entity no later than twenty-four (24) hours after the
7 data is collected.

8 B. A government entity may obtain the stored data or
9 transmitted data of an electronic device without a search warrant:

10 1. With the informed and affirmative consent of the owner or
11 user of the electronic device;

12 2. In accordance with judicially recognized exceptions to
13 warrant requirements; or

14 3. If the owner has voluntarily and publicly disclosed stored
15 data or transmitted data.

16 C. Notice shall be given to the user whose stored data,
17 transmitted data or electronic device was searched or obtained by a
18 government entity.

19 SECTION 3. This act shall become effective November 1, 2015.
20

21 55-1-75 TEK 2/18/2016 7:07:00 PM
22
23
24