

SECOND REGULAR SESSION

HOUSE BILL NO. 1315

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LIPKE (Sponsor), DIXON, EMERY, MEADOWS, ROORDA,
SILVEY, PARSON, YOUNG, CORCORAN AND BIVINS (Co-sponsors).

Read 1st time January 10, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4019L.01I

AN ACT

To amend chapter 542, RSMo, by adding thereto one new section relating to search warrants.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 542, RSMo, is amended by adding thereto one new section, to be
2 known as section 542.283, to read as follows:

542.283. 1. For the purposes of this section the following terms shall mean:

- 2 **(1) "Adverse result", occurs when notification of the existence of a search warrant**
3 **results in:**
4 **(a) Danger to the life or physical safety of an individual;**
5 **(b) A flight from prosecution;**
6 **(c) The destruction of or tampering with evidence;**
7 **(d) The intimidation of potential witnesses;**
8 **(e) Serious jeopardy to an investigation or undue delay of a trial;**
9 **(2) "Applicant", the peace officer to whom a search warrant is issued;**
10 **(3) "Electronic communications services", any service which provides to users**
11 **thereof the ability to receive wire or electronic communications;**
12 **(4) "Foreign corporation", a corporation for profit organized under laws other**
13 **than the laws of this state;**
14 **(5) "Missouri corporation", all corporations organized under chapter 351, RSMo;**
15 **(6) "Remote computing services", the provision to the public of computer storage;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (7) "Search warrant", any warrant issued allowing a search for records that are
17 in the actual or constructive possession of a foreign corporation that provides electronic
18 communication services or remote computing services to the general public in connection
19 with any communications sent to or received by customers or recipients located in
20 Missouri, where those records would reveal the identity of the customers using those
21 services, data stored by, or on behalf of the customer, the customer's usage of those
22 services, the recipient or destination of communications sent to or from those customers,
23 or the content of those customers.

24 2. When properly served with a search warrant issued by the proper Missouri
25 court, a foreign corporation subject to this section shall provide the applicant all records
26 sought under that warrant within five business days of receipt, including those records
27 maintained or located outside this state.

28 3. Where the applicant makes a showing and the judge finds that failure to produce
29 records within less than five business days would cause an adverse result, the warrant may
30 require production of records upon finding that the foreign corporation has shown good
31 cause for that extension and that an extension of time would not cause an adverse result.

32 4. A foreign corporation seeking to quash the warrant must seek relief from the
33 court that issued the warrant within the time required for production of records under this
34 section. The issuing court shall hear and decide that motion no later than five court days
35 after the motion is filed.

36 5. The foreign corporation shall verify the authenticity of the records it produces
37 under section 490.692, RSMo.

38 6. A Missouri corporation that provides electronic communication services or
39 remote computing services to the general public, when served with a warrant issued by
40 another state to produce records that would reveal the identity of the customers using those
41 services, data stored by, or on behalf of, the customer, the customer's usage of those
42 services, the recipient or destination of communications sent to or from those customers,
43 or the content of those communications, shall produce those records as if that warrant had
44 been issued by a Missouri court.

45 7. No cause of action shall lie against any foreign or Missouri corporation subject
46 to this section, its officers, employees, agents, or other specified persons for providing
47 records, information, facilities, or assistance in accordance with the terms of a warrant
48 issued under this section.

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