

1/7/16 Erik Fitzpatrick



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U.S. Code Toolbox

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18 U.S. Code § 2702 - Voluntary disclosure of customer communications or records

Current through Pub. L. 114-38 (http://www.gpo.gov/fdsys/pkg/PLAW-114publ38/html/PLAW-114publ38.htm). (See Public Laws for the current Congress (http://thomas.loc.gov/home/LegislativeData.php?n=PublicLaws).)

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(a) PROHIBITIONS.—Except as provided in subsection (b) or (c)

(1) a person or entity providing an electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service; and

(2) a person or entity providing remote computing service to the public shall not knowingly divulge to any person or entity the contents of any communication which is carried or maintained on that service—

(A) on behalf of, and received by means of electronic transmission from (or created by means of computer processing of communications received by means of electronic transmission from), a subscriber or customer of such service;

(B) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing; and



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(3) a provider of remote computing service or electronic communication service to the public shall not knowingly divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by paragraph (1) or (2)) to any governmental entity.

(b) EXCEPTIONS FOR DISCLOSURE OF COMMUNICATIONS.—A provider described in subsection (a) may divulge the contents of a communication—

(1) to an addressee or intended recipient of such communication or an agent of such addressee or intended recipient;

(2) as otherwise authorized in section 2517 (/uscode/text/18/2517), 2511(2)(a) (/uscode/text/18/lii:usc:t:18:s:2511:2:a), or 2703 (/uscode/text/18/2703) of this title;

(3) with the lawful consent of the originator or an addressee or intended recipient of such communication, or the subscriber in the case of remote computing service;

(4) to a person employed or authorized or whose facilities are used to forward such communication to its destination;

(5) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;

(6) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 2258A;

(7) to a law enforcement agency—

(A) if the contents—

(i) were inadvertently obtained by the service provider; and

(ii) appear to pertain to the commission of a crime; or

[(B) Repealed. Pub. L. 108–21, title V, § 508(b)(1)(A) (http://www.gpo.gov/fdsys/pkg/PLAW-108publ21/html/PLAW-108publ21.htm), Apr. 30, 2003, 117 Stat. 684 (http://uscode.house.gov/statviewer.htm?volume=117&page=684)]

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(8) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.

(c) **EXCEPTIONS FOR DISCLOSURE OF CUSTOMER RECORDS.**—A provider described in subsection (a) may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))—

- (1) as otherwise authorized in section 2703;
- (2) with the lawful consent of the customer or subscriber;
- (3) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service;
- (4) to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency;
- (5) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under section 2258A; or
- (6) to any person other than a governmental entity.

(d) **REPORTING OF EMERGENCY DISCLOSURES.**—On an annual basis, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report containing—

- (1) the number of accounts from which the Department of Justice has received voluntary disclosures under subsection (b)(8);
- (2) a summary of the basis for disclosure in those instances where—
 - (A) voluntary disclosures under subsection (b)(8) were made to the Department of Justice; and
 - (B) the investigation pertaining to those disclosures was closed without the filing of criminal charges; and
- (3) the number of accounts from which the Department of Justice has received voluntary disclosures under subsection (c)(4).



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