

HB1308_L.003

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.HB13-1308 be amended as follows:

1 Amend printed bill, page 3, strike lines 26 and 27 and substitute "THE
2 PREVIOUSLY DESIGNATED EMPLOYEE SHALL CREATE A WRITTEN
3 DOCUMENT"

4 Page 4, line 6, after "AGENCY;" add "AND".

5 Page 4, line 10, strike "BELIEVED IN GOOD FAITH" and substitute
6 "ASSERTED".

7 Page 4, strike lines 15 through 22 and substitute:

8 "INCREASE SUCH RISK."

9 (II) THE DESIGNATED EMPLOYEE SHALL PROVIDE A COPY OF THE
10 DOCUMENT CREATED PURSUANT TO SUBPARAGRAPH (I) OF THIS
11 PARAGRAPH (b) TO THE SUPERVISING REPRESENTATIVE OF A LAW
12 ENFORCEMENT AGENCY. THE COMMUNICATIONS OR INTERNET ACCESS
13 PROVIDER AND THE LAW ENFORCEMENT AGENCY SHALL EACH RETAIN A
14 COPY OF THE WRITTEN STATEMENT FOR NOT LESS THAN FIVE YEARS."

15 Page 5, strike line 4 and substitute:

16 "(d) (I) NOT MORE THAN FORTY-EIGHT HOURS AFTER ORDERING A".

17 Page 5, strike lines 8 through 13 and substitute:

18 "SHALL REQUEST A COURT ORDER STATING WHETHER:

19 (A) AT THE TIME THAT THE SUPERVISING REPRESENTATIVE OF A
20 LAW ENFORCEMENT AGENCY ORDERED THE PREVIOUSLY DESIGNATED
21 SECURITY EMPLOYEE OF A COMMUNICATIONS OR INTERNET ACCESS
22 PROVIDER TO PROVIDE THE INFORMATION, THE SUPERVISING
23 REPRESENTATIVE HAD PROBABLE CAUSE TO BELIEVE THAT THE
24 CONDITIONS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5)
25 EXISTED; AND

26 (B) THE LAW ENFORCEMENT AGENCY MAY RETAIN THE
27 INFORMATION FOR A BONA FIDE INVESTIGATIVE PURPOSE.

28 (II) UNLESS A COURT ORDERS THAT THE LAW ENFORCEMENT
29 AGENCY MAY RETAIN THE INFORMATION FOR A BONA FIDE INVESTIGATIVE
30 PURPOSE, AS DESCRIBED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I)
31 OF THIS PARAGRAPH (d), THE LAW ENFORCEMENT AGENCY SHALL DESTROY
32 THE INFORMATION AND NOT RETAIN ANY COPY OF THE INFORMATION FOR
33 ANY PURPOSE.

1 (III) IF THE COURT ISSUES AN ORDER STATING THAT THE
2 SUPERVISING REPRESENTATIVE OF THE LAW ENFORCEMENT AGENCY DID
3 NOT HAVE PROBABLE CAUSE TO BELIEVE THAT THE CONDITIONS
4 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) EXISTED AND
5 THAT THE INFORMATION WAS NOT LAWFULLY OBTAINED, THEN NEITHER
6 THE INFORMATION NOR ANY OTHER EVIDENCE THAT IS OBTAINED AS A
7 RESULT OF THE LAW ENFORCEMENT AGENCY'S ACQUISITION OF THE
8 INFORMATION MAY BE ADMITTED IN ANY SUBSEQUENT CRIMINAL
9 PROCEEDING UNLESS THE INFORMATION OR OTHER EVIDENCE WAS ALSO
10 ACQUIRED INDEPENDENTLY IN A LAWFUL MANNER."

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