

ASSEMBLY BILL

No. 2343

**Introduced by Assembly Members Robert Pacheco and Rod
Pacheco
(Coauthor: Assembly Member La Suer)**

February 21, 2002

An act to amend Sections 629.50, 629.51, 629.52, 629.54, 629.56, 629.58, 629.60, 629.68, 629.70, 629.72, 629.74, 629.76, 629.78, 629.80, 629.82, 629.86, 629.88, 629.89, 629.90, 629.91, and 629.94 of, to add Section 629.57 to, and to repeal Section 629.98 of, the Penal Code, relating to interception of communications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2343, as introduced, Robert Pacheco. Terrorism.

Existing law makes it unlawful to possess, use, or threaten to use weapons of mass destruction or restricted biological substances and destructive devices, as specified.

Under existing law, courts can permit the interception of certain wire, electronic digital pager, or electronic cellular telephone communications if there is probable cause to believe that the subject of the intercepted communications had committed, or was going to commit, an enumerated offense. Existing law requires the application to detail the facilities from which, or place where the interception is to take place, as specified. Existing law also makes provision for emergency intercept authority in certain situations, in which oral permission can be granted by a court as specified. Existing law requires progress reports to the court regarding any interception orders no less than every 3 days. Existing law requires certain parties to assist in the

intercepts, if ordered, provides for the payment of the reasonable cost of their assistance, and provides civil and criminal immunity for their good faith efforts to assist. Existing law makes it a misdemeanor or felony to disclose the contents of intercepted communications, as specified. The law which authorizes the interception of communications is set to repeal itself on January 1, 2003.

This bill would add to those enumerated offenses that permit a court to order the interception of wire or electronic communications the provisions relating to weapons of mass destruction, destructive devices, and other enumerated provisions while deleting language descriptive of explosives-related conduct, and would add attempts to commit any of the enumerated bases for getting an order. It would permit a prosecutor to get emergency authority to expand an existing order to intercept communications from other facilities upon a specified showing. This bill would clarify that the communications covered by these provisions include e-mail and electronically stored messages. It would permit an application to list the facility or facilities from which interception is anticipated, clarifying that more than one communications device can be covered in a single application. It would add Internet service providers and private cellular telephone providers to those parties who are required to assist in intercepting communications, and who are provided reasonable expenses and immunity for that assistance. It would expand the interception of communications provisions to cover all electronic pagers, not only those which are digital. It would allow up to 6 days between progress reports regarding an interception order. It would also clarify the application of the provision making it a misdemeanor or felony for a party to disclose any communications intercept under this chapter. This bill would also eliminate the January 1, 2003 repeal of the provisions authorizing communications intercepts.

By expanding the definition and duration of criminal provisions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.



Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 629.50 of the Penal Code is amended to
2 read:

3 629.50. Each application for an order authorizing the
4 interception of a wire, electronic ~~digital~~ pager, or electronic
5 cellular telephone communication shall be made in writing upon
6 the personal oath or affirmation of the Attorney General, Chief
7 Deputy Attorney General, or Chief Assistant Attorney General,
8 Criminal Law Division, or of a district attorney, *chief deputy*
9 *district attorney, or assistant district attorney*, to the presiding
10 judge designated by the presiding judge. Each application shall
11 include all of the following information:

12 (a) The identity of the investigative or law enforcement officer
13 making the application, and the officer authorizing the application.

14 (b) The identity of the law enforcement agency that is to
15 execute the order.

16 (c) A statement attesting to a review of the application and the
17 circumstances in support thereof by the chief executive officer, or
18 his or her designee, of the law enforcement agency making the
19 application. This statement shall name the chief executive officer
20 or the designee who effected this review.

21 (d) A full and complete statement of the facts and
22 circumstances relied upon by the applicant to justify his or her
23 belief that an order should be issued, including (1) details as to the
24 particular offense that has been, is being, or is about to be
25 committed, (2) the fact that conventional investigative techniques
26 had been tried and were unsuccessful, or why they reasonably
27 appear to be unlikely to succeed or to be too dangerous, (3) a
28 particular description of the nature and location of the *facility or*
29 *facilities* from which or the place where the communication is to
30 be intercepted, (4) a particular description of the type of
31 communication sought to be intercepted, and (5) the identity, if
32 known, of the person committing the offense and whose
33 communications are to be intercepted, or if that person's identity
34 is not known, then the information relating to the person's identity
35 that is known to the applicant.



1 (e) A statement of the period of time for which the interception
2 is required to be maintained, and if the nature of the investigation
3 is such that the authorization for interception should not
4 automatically terminate when the described type of
5 communication has been first obtained, a particular description of
6 the facts establishing probable cause to believe that additional
7 communications of the same type will occur thereafter.

8 (f) A full and complete statement of the facts concerning all
9 previous applications known, to the individual authorizing and to
10 the individual making the application, to have been made to any
11 judge of a state or federal court for authorization to intercept wire,
12 electronic ~~digital~~ pager, or electronic cellular telephone
13 communications involving any of the same persons, facilities, or
14 places specified in the application, and the action taken by the
15 judge on each of those applications.

16 (g) If the application is for the extension of an order, a statement
17 setting forth the number of communications intercepted pursuant
18 to the original order, and the results thus far obtained from the
19 interception, or a reasonable explanation of the failure to obtain
20 results.

21 The judge may require the applicant to furnish additional
22 testimony or documentary evidence in support of the application.

23 SEC. 2. Section 629.51 of the Penal Code is amended to read:
24 629.51. For the purposes of this chapter, ~~the following terms~~
25 ~~have the following meanings:~~

26 (a) “Electronic ~~digital~~ pager communication” means any tone
27 or digital display or tone and voice pager communication.

28 (b) “Electronic cellular telephone communication” means any
29 cellular or cordless radio telephone communication.

30 (c) “*Wire communication*” includes written, voice, video, or
31 other messages or information sent through e-mail media.

32 SEC. 3. Section 629.52 of the Penal Code is amended to read:

33 629.52. Upon application made under Section 629.50, the
34 judge may enter an ex parte order, as requested or modified,
35 authorizing interception of wire, electronic ~~digital~~ pager, or
36 electronic cellular telephone communications, *including any wire*
37 *communications in computer facilities or related electronic*
38 *equipment*, initially intercepted within the territorial jurisdiction
39 of the court in which the judge is sitting, if the judge determines,



1 on the basis of the facts submitted by the applicant, all of the
2 following:

3 (a) There is probable cause to believe that an individual is
4 committing, has committed, or is about to commit, one of the
5 following offenses:

6 (1) Importation, possession for sale, transportation,
7 manufacture, or sale of controlled substances in violation of
8 Section 11351, 11351.5, 11352, 11370.6, 11378, 11378.5, 11379,
9 11379.5, or 11379.6 of the Health and Safety Code with respect to
10 a substance containing heroin, cocaine, PCP, methamphetamine,
11 or their analogs where the substance exceeds 10 gallons by liquid
12 volume or three pounds of solid substance by weight.

13 (2) Murder, solicitation to commit murder, the commission of
14 ~~a crime involving the bombing of public or private property, or~~
15 ~~aggravated kidnapping, as specified in felony involving a~~
16 ~~destructive device in violation of Section 12303, 12303.1,~~
17 ~~12303.2, 12303.3, 12303.6, 12308, 12309, 12310, 12312, or a~~
18 ~~violation of Section 209.~~

19 (3) Any felony violation of Section 186.22.

20 (4) ~~Conspiracy~~ Any felony violation of Section 11351, 11351.5,
21 11352, 11418, 11418.5, 11419, or 11451.

22 (5) An attempt or conspiracy to commit any of the
23 above-mentioned crimes.

24 (b) There is probable cause to believe that particular
25 communications concerning the illegal activities will be obtained
26 through that interception, including, but not limited to,
27 communications that may be utilized for locating or rescuing a
28 kidnap victim.

29 (c) There is probable cause to believe that the *facility or*
30 *facilities* from which, or the place where, the wire, electronic
31 ~~digital~~ pager, or electronic cellular telephone communications are
32 to be intercepted are being used, or are about to be used, in
33 connection with the commission of the offense, or are leased to,
34 listed in the name of, or commonly used by the person whose
35 communications are to be intercepted.

36 (d) Normal investigative procedures have been tried and have
37 failed or reasonably appear either to be unlikely to succeed if tried
38 or to be too dangerous.

39 SEC. 4. Section 629.54 of the Penal Code is amended to read:



1 629.54. Each order authorizing the interception of any wire,
2 electronic ~~digital~~ pager, or electronic cellular telephone
3 communication shall specify all of the following:

4 (a) The identity, if known, of the person whose
5 communications are to be intercepted, or if the identity is not
6 known, then that information relating to the person's identity
7 known to the applicant.

8 (b) The nature and location of the communication *facility or*
9 facilities as to which, or the place where, authority to intercept is
10 granted.

11 (c) A particular description of the type of communication
12 sought to be intercepted, and a statement of the illegal activities to
13 which it relates.

14 (d) The identity of the agency authorized to intercept the
15 communications and of the person making the application.

16 (e) The period of time during which the interception is
17 authorized including a statement as to whether or not the
18 interception shall automatically terminate when the described
19 communication has been first obtained.

20 SEC. 5. Section 629.56 of the Penal Code is amended to read:

21 629.56. (a) Upon informal application by the Attorney
22 General, Chief Deputy Attorney General, or Chief Assistant
23 Attorney General, Criminal Law Division, or a district attorney,
24 the presiding judge of the superior court or one other judge
25 designated by the presiding judge may grant oral approval for an
26 interception, without an order, if he or she determines all of the
27 following:

28 (1) There are grounds upon which an order could be issued
29 under this chapter.

30 (2) There is probable cause to believe that an emergency
31 situation exists with respect to the investigation of an offense
32 enumerated in this chapter.

33 (3) There is probable cause to believe that a substantial danger
34 to life or limb exists justifying the authorization for immediate
35 interception of a private wire, electronic ~~digital~~ pager, or
36 electronic cellular telephone communication before an application
37 for an order could with due diligence be submitted and acted upon.

38 (b) Approval for an interception under this section shall be
39 conditioned upon filing with the judge, within 48 hours of the oral
40 approval, a written application for an order which, if granted



1 consistent with this chapter, shall also recite the oral approval
2 under this subdivision and be retroactive to the time of the oral
3 approval.

4 SEC. 6. Section 629.57 is added to the Penal Code, to read:

5 629.57. (a) Upon informal application by the Attorney
6 General, Chief Deputy Attorney General, or Chief Assistant
7 Attorney General, Criminal Law Division, or a district attorney,
8 chief deputy district attorney, or assistant district attorney, the
9 presiding judge of the superior court or one other judge designated
10 by the presiding judge may grant oral approval for an interception,
11 without an order, if he or she determines all of the following:

12 (1) There are grounds upon which an order could be issued
13 under this chapter.

14 (2) There is probable cause to believe that an emergency
15 situation exists with respect to the investigation of an offense
16 enumerated in this chapter.

17 (3) There is probable cause to believe that the target of an
18 approved interception application is utilizing other wire,
19 electronic pager, or electronic cellular telephone communication
20 with the purpose of thwarting interception.

21 (b) Approval for an interception under this section shall be
22 conditioned upon filing with the judge, within 48 hours of the oral
23 approval, a written addendum to the approved application for an
24 order which, if granted consistent with this chapter, shall also
25 recite the oral approval under this subdivision and be retroactive
26 to the time of the oral approval.

27 SEC. 7. Section 629.58 of the Penal Code is amended to read:

28 629.58. No order entered under this chapter shall authorize
29 the interception of any wire, electronic ~~digital~~ pager, or electronic
30 cellular telephone communication for any period longer than is
31 necessary to achieve the objective of the authorization, nor in any
32 event longer than 30 days. Extensions of an order may be granted,
33 but only upon application for an extension made in accordance
34 with Section 629.50 and upon the court making findings required
35 by Section 629.52. The period of extension shall be no longer than
36 the authorizing judge deems necessary to achieve the purposes for
37 which it was granted and in no event any longer than 30 days.
38 Every order and extension thereof shall contain a provision that the
39 authorization to intercept shall be executed as soon as practicable,
40 shall be conducted so as to minimize the interception of



1 communications not otherwise subject to interception under this
2 chapter, and shall terminate upon attainment of the authorized
3 objective, or in any event at the time expiration of the term
4 designated in the order or any extensions. In the event the
5 intercepted communication is in a foreign language, an interpreter
6 of that foreign language may assist peace officers in executing the
7 authorization provided in this chapter, provided that the interpreter
8 has the same training as any other interceptor authorized under this
9 chapter and provided that the interception shall be conducted so as
10 to minimize the interception of communications not otherwise
11 subject to interception under this chapter.

12 SEC. 8. Section 629.60 of the Penal Code is amended to read:
13 629.60. Whenever an order authorizing an interception is
14 entered, the order shall require reports in writing or otherwise to
15 be made to the judge who issued the order showing what progress
16 has been made toward achievement of the authorized objective, or
17 a satisfactory explanation for its lack, and the need for continued
18 interception. If the judge finds that progress has not been made,
19 that the explanation for its lack is not satisfactory, or that no need
20 exists for continued interception, he or she shall order that the
21 interception immediately terminate. The reports shall be made at
22 the intervals that the judge may require, but not less than one for
23 each period of ~~72 hours~~ *6 days*, and shall be made by any
24 reasonable and reliable means, as determined by the judge.

25 SEC. 9. Section 629.68 of the Penal Code is amended to read:
26 629.68. Within a reasonable time, but no later than 90 days,
27 after the termination of the period of an order or extensions
28 thereof, or after the filing of an application for an order of approval
29 under Section 629.56 which has been denied, the issuing judge
30 shall cause to be served upon persons named in the order or the
31 application, and other known parties to intercepted
32 communications, an inventory which shall include notice of all of
33 the following:

- 34 (a) The fact of the entry of the order.
- 35 (b) The date of the entry and the period of authorized
36 interception.
- 37 (c) The fact that during the period wire, electronic ~~digital~~ pager,
38 or electronic cellular telephone communications were or were not
39 intercepted.



1 The judge, upon filing of a motion, may, in his or her discretion,
2 make available to the person or his or her counsel for inspection
3 the portions of the intercepted communications, applications, and
4 orders that the judge determines to be in the interest of justice. On
5 an ex parte showing of good cause to a judge, the serving of the
6 inventory required by this section may be postponed. The period
7 of postponement shall be no longer than the authorizing judge
8 deems necessary to achieve the purposes for which it was granted.

9 SEC. 10. Section 629.70 of the Penal Code is amended to
10 read:

11 629.70. The contents of any intercepted wire, electronic
12 ~~digital~~ pager, or electronic cellular telephone communication or
13 evidence derived from it shall not be received in evidence or
14 otherwise disclosed in any trial, hearing, or other proceeding,
15 except a grand jury proceeding, unless each party, not less than 10
16 days before the trial, hearing, or proceeding, has been furnished
17 with a transcript of the contents of the interception and with a copy
18 of the court order and accompanying application under which the
19 interception was authorized. This 10-day period may be waived by
20 the judge if he or she finds that it was not possible to furnish the
21 party with the above information 10 days before the trial, hearing,
22 or proceeding, and that the party will not be prejudiced by the delay
23 in receiving that information.

24 SEC. 11. Section 629.72 of the Penal Code is amended to
25 read:

26 629.72. Any person in any trial, hearing, or proceeding, may
27 move to suppress some or all of the contents of any intercepted
28 wire, electronic-~~digital~~ pager, or electronic cellular telephone
29 communications, or evidence derived therefrom, only on the basis
30 that the contents or evidence were obtained in violation of the
31 Fourth Amendment of the United States Constitution or of this
32 chapter. The motion shall be made, determined, and be subject to
33 review in accordance with the procedures set forth in Section
34 1538.5.

35 SEC. 12. Section 629.74 of the Penal Code is amended to
36 read:

37 629.74. The Attorney General, any Deputy Attorney General,
38 district attorney, or deputy district attorney, or any peace officer
39 who, by any means authorized by this chapter, has obtained
40 knowledge of the contents of any wire, electronic ~~digital~~ pager, or



1 electronic cellular telephone communication, or evidence derived
2 therefrom, may disclose the contents to one of the individuals
3 referred to in this section and to any investigative or law
4 enforcement officer as defined in subdivision (7) of Section 2510
5 of Title 18 of the United States Code to the extent that the
6 disclosure is permitted pursuant to Section 629.82 and is
7 appropriate to the proper performance of the official duties of the
8 individual making or receiving the disclosure. No other disclosure,
9 except to a grand jury, of intercepted information is permitted prior
10 to a public court hearing by any person regardless of how the
11 person may have come into possession thereof. *In particular,*
12 *notwithstanding any other provision of law, a public utility,*
13 *Internet service provider, private cellular telephone provider,*
14 *landlord, custodian, or other person shall not willfully disclose,*
15 *directly or indirectly, to the target or to any unnecessary party, the*
16 *existence or content of any communication that is intercepted.*

17 SEC. 13. Section 629.76 of the Penal Code is amended to
18 read:

19 629.76. The Attorney General, any deputy attorney general,
20 district attorney, or deputy district attorney, or any peace officer or
21 federal law enforcement officer who, by any means authorized by
22 this chapter, has obtained knowledge of the contents of any wire,
23 electronic ~~digital~~ pager, or electronic cellular telephone
24 communication, or evidence derived therefrom may use the
25 contents or evidence to the extent the use is appropriate to the
26 proper performance of his or her official duties and is permitted
27 pursuant to Section 629.82.

28 SEC. 14. Section 629.78 of the Penal Code is amended to
29 read:

30 629.78. Any person who has received, by any means
31 authorized by this chapter, any information concerning a wire,
32 electronic ~~digital~~ pager, or electronic cellular telephone
33 communication, or evidence derived therefrom, intercepted in
34 accordance with the provisions of this chapter, may, pursuant to
35 Section 629.82, disclose the contents of that communication or
36 derivative evidence while giving testimony under oath or
37 affirmation in any criminal court proceeding or in any grand jury
38 proceeding.

39 SEC. 15. Section 629.80 of the Penal Code is amended to
40 read:



1 629.80. No otherwise privileged wire, electronic ~~digital~~
2 pager, or electronic cellular telephone communication intercepted
3 in accordance with, or in violation of, the provisions of this chapter
4 shall lose its privileged character. When a peace officer or federal
5 law enforcement officer, while engaged in intercepting wire,
6 electronic ~~digital~~ pager, or electronic cellular telephone
7 communications in the manner authorized by this chapter,
8 intercepts wire, electronic ~~digital~~ pager, or electronic cellular
9 telephone communications that are of a privileged nature he or she
10 shall immediately cease the interception for at least two minutes.
11 After a period of at least two minutes, interception may be resumed
12 for up to 30 seconds during which time the officer shall determine
13 if the nature of the communication is still privileged. If still of a
14 privileged nature, the officer shall again cease interception for at
15 least two minutes, after which the officer may again resume
16 interception for up to 30 seconds to redetermine the nature of the
17 communication. The officer shall continue to go online and offline
18 in this manner until the time that the communication is no longer
19 privileged or the communication ends. The recording device shall
20 be metered so as to authenticate upon review that interruptions
21 occurred as set forth in this chapter.

22 SEC. 16. Section 629.82 of the Penal Code is amended to
23 read:

24 629.82. (a) If a peace officer or federal law enforcement
25 officer, while engaged in intercepting wire, electronic ~~digital~~
26 pager, or electronic cellular telephone communications in the
27 manner authorized by this chapter, intercepts wire, electronic
28 ~~digital~~ pager, or electronic cellular telephone communications
29 relating to crimes other than those specified in the order of
30 authorization, but which are enumerated in subdivision (a) of
31 Section 629.52, (1) the contents thereof, and evidence derived
32 therefrom, may be disclosed or used as provided in Sections
33 629.74 and 629.76 and (2) the contents and any evidence derived
34 therefrom may be used under Section 629.78 when authorized by
35 a judge if the judge finds, upon subsequent application, that the
36 contents were otherwise intercepted in accordance with the
37 provisions of this chapter. The application shall be made as soon
38 as practicable.

39 (b) If a peace officer or federal law enforcement officer, while
40 engaged in intercepting wire, electronic ~~digital~~ pager, or electronic



1 cellular telephone communications in the manner authorized by
2 this chapter, intercepts wire, electronic ~~digital~~ pager, or electronic
3 cellular telephone communications relating to crimes other than
4 those specified in the order of authorization, the contents thereof,
5 and evidence derived therefrom, may not be disclosed or used as
6 provided in Sections 629.74 and 629.76, except to prevent the
7 commission of a public offense. The contents and any evidence
8 derived therefrom may not be used under Section 629.78, except
9 where the evidence was obtained through an independent source
10 or inevitably would have been discovered, and the use is
11 authorized by a judge who finds that the contents were intercepted
12 in accordance with this chapter.

13 (c) The use of the contents of an intercepted wire, electronic
14 ~~digital~~ pager, or electronic cellular telephone communication
15 relating to crimes other than those specified in the order of
16 authorization to obtain a search or arrest warrant entitles the person
17 named in the warrant to notice of the intercepted wire, electronic
18 ~~digital~~ pager, or electronic cellular telephone communication and
19 a copy of the contents thereof that were used to obtain the warrant.

20 SEC. 17. Section 629.86 of the Penal Code is amended to
21 read:

22 629.86. Any person whose wire, electronic ~~digital~~ pager, or
23 electronic cellular telephone communication is intercepted,
24 disclosed, or used in violation of this chapter shall have the
25 following remedies:

26 (a) Have a civil cause of action against any person who
27 intercepts, discloses, or uses, or procures any other person to
28 intercept, disclose, or use, the communications.

29 (b) Be entitled to recover, in that action, all of the following:

30 (1) Actual damages but not less than liquidated damages
31 computed at the rate of one hundred dollars (\$100) a day for each
32 day of violation or one thousand dollars (\$1,000), whichever is
33 greater.

34 (2) Punitive damages.

35 (3) Reasonable attorney's fees and other litigation costs
36 reasonably incurred.

37 A good faith reliance on a court order is a complete defense to
38 any civil or criminal action brought under this chapter, or under
39 Chapter 1.5 (commencing with Section 630) or any other law.



1 SEC. 18. Section 629.88 of the Penal Code is amended to
2 read:

3 629.88. Nothing in Section 631, 632.5, 632.6, or 632.7 shall
4 be construed as prohibiting any peace officer or federal law
5 enforcement officer from intercepting any wire, electronic ~~digital~~
6 pager, or electronic cellular telephone communication pursuant to
7 an order issued in accordance with the provisions of this chapter.
8 Nothing in Section 631, 632.5, 632.6, or 632.7 shall be construed
9 as rendering inadmissible in any criminal proceeding in any court
10 or before any grand jury any evidence obtained by means of an
11 order issued in accordance with the provisions of this chapter.
12 Nothing in Section 637 shall be construed as prohibiting the
13 disclosure of the contents of any wire, electronic ~~digital~~ pager, or
14 electronic cellular telephone communication obtained by any
15 means authorized by this chapter, if the disclosure is authorized by
16 this chapter. Nothing in this chapter shall apply to any conduct
17 authorized by Section 633.

18 SEC. 19. Section 629.89 of the Penal Code is amended to
19 read:

20 629.89. No order issued pursuant to this chapter shall either
21 directly or indirectly authorize covert entry into or upon the
22 premises of a residential dwelling, hotel room, or motel room for
23 installation or removal of any interception device or for any other
24 purpose. Notwithstanding that this entry is otherwise prohibited
25 by any other section or code, this chapter expressly prohibits
26 covert entry of a residential dwelling, hotel room, or motel room
27 to facilitate an order to intercept wire, electronic ~~digital~~ pager, or
28 electronic cellular telephone communications.

29 SEC. 20. Section 629.90 of the Penal Code is amended to
30 read:

31 629.90. An order authorizing the interception of a wire,
32 electronic digital pager, or electronic cellular telephone
33 communication shall direct, upon request of the applicant, that a
34 public utility engaged in the business of providing
35 communications services and facilities, *Internet service provider*,
36 *private cellular telephone provider*, a landlord, custodian, or any
37 other person furnish the applicant forthwith all information,
38 facilities, and technical assistance necessary to accomplish the
39 interception unobtrusively and with a minimum of interference
40 with the services which the public utility, *Internet service provider*,



1 *private cellular telephone provider*, landlord, custodian, or other
2 person is providing the person whose communications are to be
3 intercepted. Any such public utility, *Internet service provider*,
4 *private cellular telephone provider*, landlord, custodian, or other
5 person furnishing facilities or technical assistance shall be fully
6 compensated by the applicant for the reasonable costs of
7 furnishing the facilities and technical assistance.

8 SEC. 21. Section 629.91 of the Penal Code is amended to
9 read:

10 629.91. A good faith reliance on a court order issued in
11 accordance with this chapter by any public utility, *Internet service*
12 *provider*, *private cellular telephone provider*, landlord, custodian,
13 or any other person furnishing information, facilities, and
14 technical assistance as directed by the order is a complete defense
15 to any civil or criminal action brought under this chapter, Chapter
16 1.5 (commencing with Section 630), or any other law.

17 SEC. 22. Section 629.94 of the Penal Code is amended to
18 read:

19 629.94. (a) The Commission on Peace Officer Standards and
20 Training, in consultation with the Attorney General, shall establish
21 a course of training in the legal, practical, and technical aspects of
22 the interception of private wire, electronic ~~digital~~ pager, or
23 electronic cellular telephone communications and related
24 investigative techniques.

25 (b) The Attorney General shall set minimum standards for
26 certification and periodic recertification of the following persons
27 as eligible to apply for orders authorizing the interception of
28 private wire, electronic ~~digital~~ pager, or electronic cellular
29 telephone communications, to conduct the interceptions, and to
30 use the communications or evidence derived from them in official
31 proceedings:

32 (1) Investigative or law enforcement officers.

33 (2) Other persons, when necessary, to provide linguistic
34 interpretation who are designated by the Attorney General, Chief
35 Deputy Attorney General, or Chief Assistant Attorney General,
36 Criminal Law Division, or the district attorney and are supervised
37 by an investigative or law enforcement officer.

38 (c) The Commission on Peace Officer Standards and Training
39 may charge a reasonable enrollment fee for those students who are
40 employed by an agency not eligible for reimbursement by the



1 commission to offset the costs of the training. The Attorney
2 General may charge a reasonable fee to offset the cost of
3 certification.

4 SEC. 23. Section 629.98 of the Penal Code is repealed.

5 ~~629.98. This chapter shall remain in effect only until January~~
6 ~~1, 2003, and as of that date is repealed.~~

7 SEC. 24. No reimbursement is required by this act pursuant
8 to Section 6 of Article XIII B of the California Constitution
9 because the only costs that may be incurred by a local agency or
10 school district will be incurred because this act creates a new crime
11 or infraction, eliminates a crime or infraction, or changes the
12 penalty for a crime or infraction, within the meaning of Section
13 17556 of the Government Code, or changes the definition of a
14 crime within the meaning of Section 6 of Article XIII B of the
15 California Constitution.

16 SEC. 25. This act is an urgency statute necessary for the
17 immediate preservation of the public peace, health, or safety
18 within the meaning of Article IV of the Constitution and shall go
19 into immediate effect. The facts constituting the necessity are:

20 To investigate, prosecute, and prevent terrorism, which poses an
21 immediate and ongoing threat to the safety of this state and its
22 citizens, it is necessary that this act go into immediate effect.

