

AMENDED IN ASSEMBLY MARCH 30, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1993

Introduced by Assembly Member Irwin

February 16, 2016

An act to add Section 1502.7 to the Corporations Code, and to add Section 1524.4 to the Penal Code, relating to law enforcement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1993, as amended, Irwin. Corporate law enforcement contacts.

~~(1) Existing~~

Existing law authorizes a court or magistrate to issue a warrant for the search of a place and the seizure of property or things identified in the warrant where there is probable cause to believe that specified grounds exist. Existing law also establishes procedures for certain California corporations when served with a warrant issued by a court in another state.

This bill would ~~require the Attorney General to, require, by July 1, 2017, establish minimum qualifications for a corporate law enforcement contact and would require specified corporations to designate a corporate law enforcement contact that meets those minimum qualifications: service providers to provide, among other things, an exclusive process for emergency disclosure requests.~~ The bill would require those corporations to file a statement with the Secretary of State identifying ~~the a~~ corporate law enforcement contact, as ~~specified, and would prohibit the public disclosure of that statement.~~ *specified*. The bill would require the Secretary of State, on or before October 1, 2017, and annually

thereafter, to transmit to the Attorney General, in the manner prescribed by the Attorney General, a copy of the current statement for each corporation, and would require the Attorney General to distribute to local law enforcement agencies ~~a list of information describing how to access each of the~~ corporate law enforcement contacts created from the statements that he or she receives from the Secretary of State. The bill would require a corporation subject to these provisions to respond to a properly served ~~warrant within 5 business days.~~ *warrant.*

~~(2) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.~~

~~This bill would make legislative findings to that effect.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 1502.7 is added to the Corporations Code,
2 to read:

3 1502.7. (a) Every corporation described in subdivision (a) of
4 Section 1524.4 of the Penal Code shall file, within 90 days after
5 the filing of its original articles and annually thereafter during the
6 applicable filing period, a statement identifying the corporate law
7 enforcement contact designated pursuant to Section 1524.4 of the
8 Penal Code.

9 (b) For the purposes of this section, the applicable filing period
10 for a corporation shall be the calendar month during which its
11 original articles were filed and the immediately preceding five
12 calendar months. The Secretary of State shall provide a notice to
13 each corporation to comply with this section approximately three
14 months prior to the close of the applicable filing period. The notice
15 shall state the due date for compliance and shall be sent to the last
16 address of the corporation according to the records of the Secretary
17 of State or to the last electronic mail address according to the
18 records of the Secretary of State if the corporation has elected to
19 receive notices from the Secretary of State by electronic mail. The
20 failure of the corporation to receive the notice is not an excuse for
21 failure to comply with this section.

1 (c) The Secretary of State may destroy or otherwise dispose of
2 any statement filed pursuant to this section after it has been
3 superseded by the filing of a new statement.

4 (d) On or before October 1, 2017, and annually thereafter, the
5 Secretary of State shall transmit to the Attorney General, in the
6 manner prescribed by the Attorney General, a copy of the current
7 statement made pursuant to this section for each corporation.

8 (e) If the corporate law enforcement contact is no longer
9 employed by the corporation, the corporation shall forthwith file
10 a statement identifying the new corporate law enforcement contact
11 designated pursuant to Section 1524.4 of the Penal Code.

12 ~~(f) A statement filed pursuant to this section is confidential and
13 shall not be disclosed pursuant to any state law, including, but not
14 limited to, the California Public Records Act (Chapter 3.5
15 (commencing with Section 6250) of Division 7 of Title 1).~~

16 SEC. 2. Section 1524.4 is added to the Penal Code, to read:

17 1524.4. (a) This section applies to a corporation operating in
18 California that is a service provider, as defined in subdivision (j)
19 of Section 1546, that generates customer data for 1,000,000 or
20 more people annually. This section does not apply to a service
21 provider that does not offer services to the general public.

22 (b) (1) A corporation described in subdivision (a) shall designate
23 a corporate law enforcement contact that ~~meets the qualifications~~
24 *is responsible for the requirements* established pursuant to
25 paragraph (1) of subdivision (c). *Those requirements may be*
26 *fulfilled by means of an Internet Web portal, telecommunications,*
27 *or any combination of those communication methods.* If the
28 corporate law enforcement contact is no longer employed by the
29 corporation, the corporation shall forthwith designate a new
30 corporate law enforcement contact.

31 (2) When properly served with a search warrant issued by ~~the~~
32 *a* California court, a corporation described in subdivision (a) shall
33 provide to the peace officer to whom the search warrant was issued
34 pursuant to subdivision (a) of Section 1528, all records sought
35 pursuant to that ~~warrant within five business days of receipt,~~
36 *warrant*, including those records maintained or located outside
37 this state.

38 (c) (1) ~~The Attorney General shall, by July 1, 2017, establish~~
39 ~~minimum qualifications for a corporate law enforcement contact,~~
40 ~~including, but not limited to, the following:~~ *service providers shall,*

1 *at a minimum, provide the following through their law enforcement*
2 *contact:*

- 3 ~~(A) The ability to shorten the deadline for compliance.~~
- 4 (A) *An exclusive process for emergency disclosure requests.*
- 5 (B) Exclusive access and service for law enforcement personnel.
- 6 (C) An ability to comply with a law enforcement request for
- 7 information regardless of the location of the data.
- 8 ~~(D) A requirement that the contact have continual availability.~~
- 9 (D) *Continual availability of the law enforcement contact.*
- 10 (E) The authority to make decisions regarding warrants and the
- 11 disclosure of information and data.

12 (2) The Attorney General shall, annually, distribute a list of
13 *information describing how to access each of the* corporate law
14 enforcement contacts created from the statements that he or she
15 receives from the Secretary of State pursuant to Section 1502.7 of
16 the Corporations Code to local law enforcement agencies.

17 ~~SEC. 3. The Legislature finds and declares that Section 1 of~~
18 ~~this act, which adds Section 1502.7 of the Corporations Code,~~
19 ~~imposes a limitation on the public's right of access to the meetings~~
20 ~~of public bodies or the writings of public officials and agencies~~
21 ~~within the meaning of Section 3 of Article I of the California~~
22 ~~Constitution. Pursuant to that constitutional provision, the~~
23 ~~Legislature makes the following findings to demonstrate the interest~~
24 ~~protected by this limitation and the need for protecting that interest:~~

25 ~~Prohibiting the disclosure of statements filed by corporations~~
26 ~~that designate a corporate law enforcement contact protects the~~
27 ~~internal business processes of private businesses from unnecessary~~
28 ~~intrusion and facilitates communication between law enforcement~~
29 ~~and private businesses regarding necessary information that~~
30 ~~protects public health and safety.~~