

Assembly Bill No. 1993

Passed the Assembly August 30, 2016

Chief Clerk of the Assembly

Passed the Senate August 25, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1993, Irwin. Law enforcement contact process: service providers.

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 if there is probable cause to believe that specified grounds exist.

This bill would require service providers to maintain a law enforcement contact process that meets specified criteria and, by July 1, 2017, file a statement with the Attorney General describing that process. The bill would require a service provider to file a statement with the Attorney General describing any material change to its process as soon as practicable after making that change. The bill would require the Attorney General to consolidate the statements received pursuant to these provisions in one discrete record and regularly make that record available to law enforcement agencies. The bill would make the statements confidential and prohibit their disclosure pursuant to any state law. By increasing the duties of local law enforcement agencies to maintain confidential records, the bill would impose a state-mandated local program.

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.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that

the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

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.

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

SECTION 1. The Legislature finds and declares that Section 2 of this act, which adds Section 1524.4 to the Penal Code, is intended to reduce investigation time and facilitate efficient communication between law enforcement personnel and electronic communication service providers that provide service to the general public and that have received requests from law enforcement personnel for electronic communication and electronic communication information subject to the Electronic Communications Privacy Act (Chapter 3.6 (commencing with Section 1546) of Title 12 of Part 2 of the Penal Code). It shall not be construed to apply to a person or entity solely on the basis that the person or entity is a subscriber to an electronic communication service or a customer of an electronic communication service provider.

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

1524.4. (a) This section applies to a service provider that is subject to the Electronic Communications Privacy Act (Chapter 3.6 (commencing with Section 1546)) and that operates in California. This section does not apply to a service provider that does not offer services to the general public.

(b) (1) Every service provider described in subdivision (a) shall maintain a law enforcement contact process that meets the criteria set forth in paragraph (2).

(2) Every service provider described in subdivision (a) shall ensure, at a minimum, that its law enforcement contact process meets all of the following criteria:

(A) Provides a specific contact mechanism for law enforcement personnel.

(B) Provides continual availability of the law enforcement contact process.

(C) Provides a method to provide status updates to a requesting law enforcement agency on a request for assistance.

(3) Every service provider described in subdivision (a) shall, by July 1, 2017, file a statement with the Attorney General describing the law enforcement contact process maintained pursuant to paragraph (1). If a service provider makes a material change to its law enforcement contact process, the service provider shall, as soon as practicable, file a statement with the Attorney General describing its new law enforcement contact process.

(c) The Attorney General shall consolidate the statements received pursuant to this section into one discrete record and regularly make that record available to local law enforcement agencies.

(d) The exclusive remedy for a violation of this section shall be an action brought by the Attorney General for injunctive relief. Nothing in this section shall limit remedies available for a violation of any other state or federal law.

(e) A statement filed or distributed pursuant to this section is confidential and shall not be disclosed pursuant to any state law, including, but not limited to, the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 1524.4 to the Penal Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the internal processes of private businesses from unnecessary intrusion and facilitate contact between law enforcement and private businesses regarding access to information that will protect public health and safety, it is necessary to limit access to statements filed by service providers that describe the service providers' law enforcement contact processes.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which adds Section 1524.4 to the Penal Code, furthers,

within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

By facilitating contact between law enforcement and service providers regarding access to information that will protect public health and safety and by appropriately limiting access to internal business processes, this bill furthers the purpose of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district under this act would result from a legislative mandate that is within the scope of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution.

Approved _____, 2016

Governor