To amend title 18, United States Code, to provide for the applicability to operators of Internet Web sites of restrictions on the disclosure or records and other information relating to the use of such sites, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2000

Mr. TORRICELLI (for himself and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide for the applicability to operators of Internet Web sites of restrictions on the disclosure or records and other information relating to the use of such sites, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “Secure Online Commu-
5 nication Enforcement Act of 2000”.


SEC. 2. ENHANCED PRIVACY PROTECTION FOR INFORMATION ON COMPUTER NETWORKS.

(a) IN GENERAL.—Section 2703(b) of title 18, United States Code, is amended by striking paragraph (1) and inserting the following new paragraph (1):

“(1) IN GENERAL.—A governmental entity may require a provider of remote computing service to disclose the contents of any electronic communication to which this paragraph is made applicable by paragraph (2)—

“(A) pursuant to a warrant issued under the Federal Rules of Criminal Procedure or equivalent State warrant, a copy of which warrant shall be served on the subscriber or customer of such remote computing service before or at the same time the warrant is served on the provider of the remote computing service; or

“(B) pursuant to a Federal or State grand jury or trial subpoena, a copy of which subpoena shall be served on the subscriber or customer of such remote computing service under circumstances allowing the subscriber or customer a meaningful opportunity to challenge the subpoena.”.

(b) CONFORMING AMENDMENTS.—Paragraph (2) of that section is amended—
(1) by indenting the paragraph 2 ems;

(2) by inserting “APPLICABILITY.—” after “(2)”;

(3) by indenting subparagraphs (A) and (B) 4 ems.

**SEC. 3. ENHANCEMENT OF SECURE ON-LINE COMMUNICATIONS.**

(a) **APPLICABILITY OF LIMITATIONS ON DISCLOSURE OF COMMUNICATION RECORDS.**—Paragraph (1) of section 2703(c) of title 18, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting “, or an operator of an Internet Web site (including an agent of such operator) or other third party,’’ after “remote computing service’’; and

(B) by inserting “or Internet Web site’’ after “of such service’’; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i)—

(i) by inserting “, or an operator of an Internet Web site (including an agent of such operator) or other third party,’’ after “remote computing service’’; and

(ii) by inserting “or Internet Web site’’ after “of such service’’; and
(B) in clause (iv), by inserting “or operator” after “of such provider”.

(b) Disclosure of Communication Records to Non-Government Entities.—Paragraph (1)(A) of such section is further amended by striking “other than a government entity.” and inserting “other than a government entity only if the disclosure is—

“(i) necessary to initiate, provide, bill, or collect for such service or for access to or use of such Internet Web site;

“(ii) necessary to protect the rights or property of the provider of such service or Internet Web site;

“(iii) made at the request of the subscriber or customer;

“(iv) made with the affirmative consent of the subscriber or customer given at the time the disclosure is sought; or

“(v) required by law.”.

(c) Information Covered by Limitations on Disclosure.—Such section is further amended in paragraphs (1)(A) and (1)(B) by inserting before the end parenthesis the following: “, but including information generated in the process of accessing or otherwise using the Internet”.

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(d) DISCLOSURE OF AGGREGATE INFORMATION.— Such section is further amended by adding at the end the following new paragraph:

“(3) Nothing in this subsection may be construed to prohibit a provider of electronic communication service or remote computing service, operator of an Internet Web site (including an agent of such operator), or third party from using, disclosing, or permitting access to aggregate customer or subscriber information from which individual customer or subscriber information and characteristics have been removed.”.

(e) PROTECTION OF SERVICE.—Such section is further amended by adding at the end the following new paragraph:

“(4) A provider of electronic communication service or remote computing service or operator of an Internet Web site may not terminate the provision of such service or access to or use of such Internet Web site to an individual who refuses to consent to the disclosure of records or other information under paragraph (1)(A)(iv) as a result of such refusal.”.

(f) FEDERAL PREEMPTION.—Such section is further amended by adding at the end the following new paragraph:
“(5) This subsection preempts any State or local law regarding the disclosure by providers of electronic communication service or remote computing service and operators of Internet Web sites of records or other information covered by this subsection.”.

(g) Conforming Amendment.—The subsection heading of such section is amended by striking “OR REMOTE COMPUTING SERVICE” and inserting “, REMOTE COMPUTING SERVICE, OR INTERNET WEB SITE”.

(h) Effective Date.—The amendments made by this section shall take effect 180 days after the date of enactment.