

**AMENDMENT TO RULES COMMITTEE PRINT 119-**

**33**

**OFFERED BY MR. DAVIDSON OF OHIO**

At the end of subtitle B of title XVII, add the following new section:

1 **SEC. 17\_\_.** **PRIVACY PROTECTIONS FOR ELECTRONIC**  
2 **COMMUNICATIONS INFORMATION STORED**  
3 **BY THIRD-PARTY SERVICE PROVIDERS.**

4 (a) **VOLUNTARY DISCLOSURE CORRECTIONS.—**

5 (1) **IN GENERAL.—**Section 2702 of title 18,  
6 United States Code, is amended—

7 (A) in subsection (a)—

8 (i) in paragraph (1)—

9 (I) by striking “divulge” and in-  
10 sserting “disclose”; and

11 (II) by striking “while in elec-  
12 tronic storage by that service” and in-  
13 sserting “that is in electronic storage  
14 with or otherwise stored, held, or  
15 maintained by that service”;

16 (ii) in paragraph (2)—

17 (I) by striking “to the public”;

1 (II) by striking “divulge” and in-  
2 serting “disclose”; and

3 (III) by striking “which is car-  
4 ried or maintained on that service”  
5 and inserting “that is stored, held, or  
6 maintained by that service”; and

7 (iii) in paragraph (3)—

8 (I) by striking “divulge” and in-  
9 serting “disclose”; and

10 (II) by striking “a provider of”  
11 and inserting “a person or entity pro-  
12 viding”;

13 (B) in subsection (b)—

14 (i) in the matter preceding paragraph  
15 (1)—

16 (I) by striking “divulge” and in-  
17 serting “disclose”; and

18 (II) by inserting “wire or elec-  
19 tronic” before “communication”;

20 (ii) by amending paragraph (1) to  
21 read as follows:

22 “(1) to an originator, addressee, or intended re-  
23 cipient of such communication, to the subscriber or  
24 customer on whose behalf the provider stores, holds,  
25 or maintains such communication, or to an agent of

1 such addressee, intended recipient, subscriber, or  
2 customer;” and

3 (iii) by amending paragraph (3) to  
4 read as follows:

5 “(3) with the lawful consent of the originator,  
6 addressee, or intended recipient of such communica-  
7 tion, or of the subscriber or customer on whose be-  
8 half the provider stores, holds, or maintains such  
9 communication;” and

10 (C) in subsection (c)—

11 (i) in the matter preceding paragraph

12 (1)—

13 (I) by striking “divulge” and in-  
14 serting “disclose”; and

15 (II) by inserting “wire or elec-  
16 tronic” before “communications”; and

17 (ii) by amending paragraph (2) to  
18 read as follows:

19 “(2) with the lawful consent of the subscriber  
20 or customer;”.

21 (b) AMENDMENTS TO REQUIRED DISCLOSURE SEC-  
22 TION.—

23 (1) IN GENERAL.—Section 2703 of title 18,  
24 United States Code, is amended—

25 (A) in subsection (a)—

1 (i) by striking “A governmental enti-  
2 ty” and inserting “Except as provided in  
3 subsections (i) and (j), a governmental en-  
4 tity”;

5 (ii) by striking “provider of electronic  
6 communication service” and inserting  
7 “provider of electronic communication  
8 service or remote computing service”;

9 (iii) by striking “pursuant to” and in-  
10 sserting “if the governmental entity ob-  
11 tains”;

12 (iv) by striking “by a court of com-  
13 petent jurisdiction.” and inserting “that is  
14 issued by a court of competent jurisdiction  
15 and that may indicate the date by which  
16 the provider must make the disclosure to  
17 the governmental entity. In the absence of  
18 a date on the warrant indicating the date  
19 by which the provider must make disclo-  
20 sure to the governmental entity, the pro-  
21 vider shall promptly respond to the war-  
22 rant.”; and

23 (v) by striking “provider of electronic  
24 communication services” and inserting

1 “provider of electronic communication  
2 service or remote computing service”;

3 (B) in subsection (c)—

4 (i) in paragraph (1)—

5 (I) in the matter preceding sub-  
6 paragraph (A)—

7 (aa) by striking “A govern-  
8 mental entity” and inserting  
9 “Except as provided in sub-  
10 sections (i) and (j), a govern-  
11 mental entity”; and

12 (bb) by striking “only when  
13 the governmental entity” and in-  
14 serting “only”;

15 (II) in subparagraph (A)—

16 (aa) by striking “obtains a  
17 warrant issued” and inserting “if  
18 the governmental entity obtains a  
19 warrant”;

20 (bb) by striking “by the  
21 President) by a court” and in-  
22 serting the following: “by the  
23 President) that—

24 “(i) is issued by a court”;

1 (cc) by inserting “and” after  
2 “jurisdiction;”; and

3 (dd) by adding at the end  
4 the following:

5 “(ii) may indicate the date by which  
6 the provider must make the disclosure to  
7 the governmental entity;”;

8 (III) in subparagraph (B), by in-  
9 serting “if the governmental entity”  
10 before “obtains”;

11 (IV) in subparagraph (C), by  
12 striking “has the consent of the sub-  
13 scriber or customer to such disclo-  
14 sure;” and inserting “with the lawful  
15 consent of the subscriber or customer;  
16 or”;

17 (V) by striking subparagraph  
18 (D);

19 (VI) by redesignating subpara-  
20 graph (E) as subparagraph (D);and

21 (VII) in subparagraph (D), as so  
22 redesignated, by striking “seeks infor-  
23 mation” and inserting “as otherwise  
24 authorized”; and

25 (ii) in paragraph (2)—

1 (I) in the matter preceding sub-  
2 paragraph (A), by inserting “, in re-  
3 sponse to an administrative subpoena  
4 authorized by Federal or State stat-  
5 ute, a grand jury, trial, or civil dis-  
6 covery subpoena, or any means avail-  
7 able under paragraph (1),” after  
8 “shall”; and

9 (II) in the matter following sub-  
10 paragraph (F), by striking “of a sub-  
11 scriber” and all that follows and in-  
12 sserting “of a subscriber or customer  
13 of such service.”;

14 (C) in subsection (d)—

15 (i) by striking “the contents of a wire  
16 or electronic communication, or”;

17 (ii) by striking “sought,” and insert-  
18 ing “sought”; and

19 (iii) by striking “section” and insert-  
20 ing “subsection”; and

21 (D) by adding at the end the following:

22 “(h) NOTICE.—Except as provided in section 2705,  
23 a provider of electronic communication service or remote  
24 computing service may notify a subscriber or customer of

1 a receipt of a warrant, court order, subpoena, or request  
2 under subsection (a), (c), or (d) of this section.

3 “(i) RULE OF CONSTRUCTION RELATED TO LEGAL  
4 PROCESS.—Nothing in this section or in section 2702  
5 shall modify the authorities for a governmental entity to  
6 obtain a wire or electronic communication (including the  
7 contents of that communication) from a provider of a re-  
8 mote computing service or electronic communication serv-  
9 ice if—

10 “(1) the originator, addressee, or intended re-  
11 cipient of such communication is an officer, director,  
12 employee, or agent of the provider acting in their ca-  
13 pacity as such an officer, director, employee, or  
14 agent; or

15 “(2) the communication—

16 “(A) advertises or promotes a product or  
17 service; and

18 “(B) has been made readily available to  
19 the general public.

20 “(j) RULE OF CONSTRUCTION RELATED TO CON-  
21 GRESSIONAL SUBPOENAS.—Nothing in this section or in  
22 section 2702 shall limit the power of inquiry vested in the  
23 Congress by article I of the Constitution of the United  
24 States.”

1           (2) WARRANT REQUIREMENT FOR STORED  
2           COMMUNICATIONS CONTENT.—Section 2703 of title  
3           18, United States Code, is amended—

4                   (A) in subsection (a)—

5                           (i) by striking “, that is in electronic  
6                           storage in an electronic communications  
7                           system for one hundred and eighty days or  
8                           less,”; and

9                           (ii) by striking the last sentence;

10                   (B) by striking subsection (b) and insert-  
11                   ing the following:

12                   “(b) **【Repealed】**.”; and

13                   (C) in subsection (d) by striking “(b) or”.

