



Ohio Revised Code

Section 2933.76 Application for pen register or trap and trace device to obtain information in connection with criminal investigation.

Effective: March 30, 1999

Legislation: House Bill 565 - 122nd General Assembly

(A) As used in this section and section 2933.77 of the Revised Code, "electronic communication," "electronic communication service," "investigative officer," "judge of a court of common pleas," "pen register," "trap and trace device," and "wire communication" have the same meanings as in section 2933.51 of the Revised Code.

(B) A judge of a court of common pleas, in accordance with this section, may issue an order authorizing or approving the installation and use, within the jurisdiction of the court, of a pen register or a trap and trace device to obtain information in connection with a criminal investigation.

(C) A law enforcement officer or investigative officer may make an application to a judge of a court of common pleas for an order authorizing the installation and use, within the jurisdiction of the court, of a pen register or a trap and trace device to obtain information in connection with a criminal investigation. The application shall be in writing and shall be under oath or affirmation. Each application shall contain all of the following:

(1) The name of the law enforcement officer or investigative officer making the application and the name of the investigative or law enforcement agency conducting the criminal investigation to which the application relates;

(2) The name, if known, of the person to whom the telephone or other line to which the pen register or trap and trace device is to be attached is leased or in whose name that telephone or other line is listed;

(3) The name, if known, of the person who is the subject of the criminal investigation to which the application relates;

(4) The number and, if known, the physical location of the telephone or other line to which the pen



register or the trap and trace device is to be attached;

(5) A statement of the offense to which the information that is likely to be obtained by the installation and use of the pen register or trap and trace device relates;

(6) A certification by the law enforcement officer or investigative officer making the application that the information that is likely to be obtained by the installation and use of the pen register or trap and trace device is relevant to an ongoing criminal investigation being conducted by the investigative or law enforcement agency identified under division (C)(1) of this section.

(D)(1) The judge to whom an application is made under division (C) of this section shall issue and enter an order authorizing the installation and use of a pen register or a trap and trace device if the judge finds that the information relating to an offense that is likely to be obtained by the installation and use of the pen register or trap and trace device is relevant to an ongoing criminal investigation being conducted by the investigative or law enforcement agency identified under division (C)(1) of this section. In the order, the judge shall specify a finding with respect to each of the items required by divisions (C)(1) to (6) of this section to be included in the application.

(2) If the law enforcement officer or investigative officer so requests, the order shall direct the appropriate provider of wire or electronic communication service, landlord, custodian, or other person to furnish the law enforcement officer or investigative officer with all information, facilities, and technical assistance necessary to accomplish the installation and operation of a pen register or trap and trace device unobtrusively and with a minimum of interference of service to the person with respect to whom the installation and operation are to take place. The order further shall direct the person who owns or leases the telephone or other line to which the pen register or trap and trace device is to be attached, or the provider of wire or electronic communication service, landlord, custodian, or other person who is ordered under division (D)(2) of this section to provide information, facilities, or technical assistance, not to disclose the existence of the criminal investigation or of the installation and use of the pen register or trap and trace device to the listed subscriber of the telephone or other line or to another person unless or until otherwise ordered by the court. If the order pertains to a trap and trace device, the order may require the appropriate provider of wire or electronic communication service to install and operate the device. The order shall be sealed until otherwise ordered by the court.



(E) An order issued pursuant to division (D) of this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed sixty days. The court may grant an extension of the sixty-day period upon application for an order in accordance with division (C) of this section and upon the judicial findings required by division (D)(1) of this section. An extension of an order issued under this division shall be in effect for a period not to exceed sixty days. The court may order further extensions of the sixty-day extended period upon compliance with this division.

(F) A good faith reliance on a court order issued under this section, a legislative authorization, or a statutory authorization is a complete defense against any claim in a civil action or any charge in a criminal action alleging a violation of the requirements of this section or section 2933.77 of the Revised Code.