

1.1 Senator moves to amend S.F. No. 3329 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2020, section 626A.35, is amended to read:

1.4 **626A.35 GENERAL PROHIBITION ON PEN REGISTER, AND TRAP AND**
1.5 **TRACE DEVICE, ~~AND MOBILE TRACKING DEVICE USE; EXCEPTION.~~**

1.6 Subdivision 1. **In general.** Except as provided in this section, no person may install or
1.7 use a pen register, or trap and trace device, ~~or mobile tracking device~~ without first obtaining
1.8 a court order under section 626A.37.

1.9 Subd. 2. **Exception.** The prohibition of subdivision 1 does not apply with respect to the
1.10 use of a pen register or a trap and trace device by a provider of electronic or wire
1.11 communication service:

1.12 (1) relating to the operation, maintenance, and testing of a wire or electronic
1.13 communication service or to the protection of the rights or property of the provider, or to
1.14 the protection of users of that service from abuse of service or unlawful use of service; or

1.15 (2) to record the fact that a wire or electronic communication was initiated or completed
1.16 in order to protect the provider, another provider furnishing service toward the completion
1.17 of the wire communication, or a user of that service, from fraudulent, unlawful, or abusive
1.18 use of service; or

1.19 (3) where the consent of the user of that service has been obtained.

1.20 ~~Subd. 2a. **Exception.** The prohibition of subdivision 1 does not apply to the use of a~~
1.21 ~~mobile tracking device where the consent of the owner of the object to which the mobile~~
1.22 ~~tracking device is to be attached has been obtained.~~

1.23 Subd. 3. **Penalty.** Whoever knowingly violates subdivision 1 shall be fined not more
1.24 than \$3,000 or imprisoned not more than one year, or both.

1.25 Sec. 2. Minnesota Statutes 2020, section 626A.36, is amended to read:

1.26 **626A.36 APPLICATION FOR ORDER FOR PEN REGISTER, OR TRAP AND**
1.27 **TRACE DEVICE, ~~OR MOBILE TRACKING DEVICE.~~**

1.28 Subdivision 1. **Application.** An investigative or law enforcement officer with
1.29 responsibility for an ongoing criminal investigation may make application for an order or
1.30 an extension of an order under section 626A.37 authorizing or approving the installation

2.1 and use of a pen register, or trap and trace device, ~~or mobile tracking device~~ under sections
2.2 626A.35 to 626A.39, in writing under oath or equivalent affirmation, to a district court.

2.3 Subd. 2. **Contents of application.** An application under subdivision 1 must include:

2.4 (1) the identity of the law enforcement or investigative officer making the application,
2.5 the identity of any other officer or employee authorizing or directing the application, and
2.6 the identity of the law enforcement agency conducting the investigation; and

2.7 (2) a statement of the facts and circumstances relied upon by the applicant to justify the
2.8 applicant's belief that an order should be issued.

2.9 Sec. 3. Minnesota Statutes 2020, section 626A.37, is amended to read:

2.10 **626A.37 ISSUANCE OF ORDER FOR PEN REGISTER, OR TRAP AND TRACE**
2.11 **DEVICE, ~~OR MOBILE TRACKING DEVICE.~~**

2.12 Subdivision 1. **In general.** Upon an application made under section 626A.36, the court
2.13 may enter an ex parte order authorizing the installation and use of a pen register, or trap
2.14 and trace device, ~~or mobile tracking device~~ within the jurisdiction of the court if the court
2.15 finds on the basis of the information submitted by the applicant that there is reason to believe
2.16 that the information likely to be obtained by the installation and use is relevant to an ongoing
2.17 criminal investigation.

2.18 Subd. 2. **Contents of order.** (a) An order issued under this section must specify:

2.19 (1) the identity, if known, of the person to whom is leased or in whose name is listed
2.20 the telephone line to which the pen register or trap and trace device is to be attached ~~or of~~
2.21 ~~the person to be traced by the mobile tracking device;~~

2.22 (2) the identity, if known, of the person who is the subject of the criminal investigation;

2.23 (3) the number and, if known, physical location of the telephone line to which the pen
2.24 register or trap and trace device is to be attached ~~or the identity or nature of the object or~~
2.25 ~~objects to which the mobile tracking device is to be attached,~~ and, in the case of a trap and
2.26 trace device, the geographic limits of the trap and trace order;

2.27 (4) a statement of the offense to which the information likely to be obtained by the pen
2.28 register, or trap and trace device, ~~or mobile tracking device~~ relates;

2.29 (5) the identity of the law enforcement or investigative officer responsible for installation
2.30 and use of the pen register, or trap and trace device, ~~or mobile tracking device;~~ and

3.1 (6) the period during which the use of the pen register, or trap and trace device, ~~or mobile~~
3.2 ~~tracking device~~ is authorized.

3.3 (b) An order issued under this section must direct, upon the request of the applicant, the
3.4 furnishing of information, facilities, and technical assistance necessary to accomplish the
3.5 installation of the pen register, or trap and trace device, ~~or mobile tracking device~~ under
3.6 section 626A.38.

3.7 Subd. 3. **Time period and extensions.** (a) An order issued under this section must
3.8 authorize the installation and use of a pen register, or a trap and trace device, ~~or a mobile~~
3.9 ~~tracking device~~ for a period not to exceed 60 days, or the period necessary to achieve the
3.10 objective of the authorization, whichever is less.

3.11 (b) Extensions of an order may be granted, but only upon an application for an order
3.12 under section 626A.36 and upon the judicial finding required by subdivision 1. The extension
3.13 must include a statement of any changes in the information required in subdivision 2. The
3.14 period of extension must be for a period not to exceed 60 days, or the period necessary to
3.15 achieve the objective for which it is granted, whichever is less.

3.16 Subd. 4. **Nondisclosure of existence of pen register, or trap and trace device, ~~or~~**
3.17 **~~mobile tracking device.~~** (a) An order authorizing or approving the installation and use of
3.18 a pen register, or trap and trace device, ~~or a mobile tracking device~~ must direct that:

3.19 (1) the order be sealed until otherwise ordered by the court; and

3.20 (2) the person owning or leasing the line to which the pen register or a trap and trace
3.21 device is attached, or who has been ordered by the court to provide assistance to the applicant,
3.22 not disclose the existence of the pen register, or trap and trace device, ~~mobile tracking~~
3.23 ~~device~~, or the existence of the investigation to the listed subscriber, or to any other person,
3.24 unless or until otherwise ordered by the court.

3.25 (b) Paragraph (a) does not apply to an order that involves location information of
3.26 electronic devices, as defined in section 626A.42. Instead, the filing, sealing, and reporting
3.27 requirements for those orders are governed by section 626A.42, subdivision 4. However,
3.28 any portion of an order that does not involve location information of electronic devices
3.29 continues to be governed by paragraph (a).

3.30 Subd. 5. **Jurisdiction.** A warrant or other order for a mobile tracking device issued under
3.31 this section or other authority may authorize the use of a mobile tracking device within the
3.32 jurisdiction of the court and outside of that jurisdiction as long as the device is installed in
3.33 the jurisdiction.

4.1 Sec. 4. Minnesota Statutes 2020, section 626A.38, is amended to read:

4.2 **626A.38 REGISTER, OR TRAP AND TRACE DEVICE, ~~OR MOBILE TRACKING~~**
4.3 **DEVICE.**

4.4 Subdivision 1. **Pen registers ~~or mobile tracking devices~~.** Upon the request of an officer
4.5 of a law enforcement agency authorized to install and use a pen register ~~or mobile tracking~~
4.6 ~~device~~ under sections 626A.35 to 626A.39, a provider of wire or electronic communication
4.7 service, landlord, custodian, or other person shall furnish the investigative or law enforcement
4.8 officer immediately with all information, facilities, and technical assistance necessary to
4.9 accomplish the installation of the pen register ~~or mobile tracking device~~ unobtrusively and
4.10 with a minimum of interference with the services that the person so ordered by the court
4.11 accords the party with respect to whom the installation and use is to take place, if the
4.12 assistance is directed by a court order as provided in section 626A.37, subdivision 2,
4.13 paragraph (b).

4.14 Subd. 2. **Trap and trace device.** Upon the request of an officer of a law enforcement
4.15 agency authorized to receive the results of a trap and trace device under sections 626A.35
4.16 to 626A.39, a provider of a wire or electronic communication service, landlord, custodian,
4.17 or other person shall install the device immediately on the appropriate line and shall furnish
4.18 the investigative or law enforcement officer all additional information, facilities, and technical
4.19 assistance including installation and operation of the device unobtrusively and with a
4.20 minimum of interference with the services that the person so ordered by the court accords
4.21 the party with respect to whom the installation and use is to take place, if the installation
4.22 and assistance is directed by a court order as provided in section 626A.37, subdivision 2,
4.23 paragraph (b). Unless otherwise ordered by the court, the results of the trap and trace device
4.24 shall be furnished to the officer of a law enforcement agency, designated by the court, at
4.25 reasonable intervals during regular business hours for the duration of the order.

4.26 Subd. 3. **Compensation.** A provider of a wire or electronic communication service,
4.27 landlord, custodian, or other person who furnishes facilities or technical assistance under
4.28 this section must be reasonably compensated for reasonable expenses incurred in providing
4.29 facilities and assistance.

4.30 Subd. 4. **No cause of action against provider disclosing certain information.** No
4.31 cause of action lies in any court against a provider of a wire or electronic communication
4.32 service, its officers, employees, agents, or other specified persons for providing information,
4.33 facilities, or assistance in accordance with the terms of a court order under sections 626A.35
4.34 to 626A.39.

5.1 **Sec. 5. REVISOR INSTRUCTION.**

5.2 The revisor of statutes shall change the chapter heading for Minnesota Statutes, section
5.3 626A.35, to "PEN REGISTER; TRAP AND TRACE DEVICE."

5.4 **Sec. 6. REPEALER.**

5.5 Minnesota Statutes 2020, section 626A.39, subdivision 5, is repealed."

5.6 Amend the title accordingly