

Intercepting Computer Trespasser Communications

This Act authorizes intercepting electronic communications of suspected computer trespassers under certain conditions. It defines “computer trespasser” as “a person who accesses a computer or any other device with Internet capability without authorization and thus has no reasonable expectation of privacy in any communication transmitted to, through, or from the computer or other device.”

The Act sets out procedures for people to challenge an interception. It provides that any aggrieved person in any trial, hearing, or proceeding in or before any court or other authority of the state may move to suppress the contents of any wire or electronic communication intercepted in accordance with the Act, or evidence derived there from, on the grounds that the communication was unlawfully intercepted or the interception was not made in conformity with the Act.

Submitted as:

New Jersey

[P.L. 2009, Chapter 142](#)

Status: Enacted into law in 2009.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act Concerning Intercepting
2 Computer Trespasser Communications.”

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 Section 2. [*Permitting Intercepting Wire and Electronic Communications.*]

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 (A) It shall not be a violation of any provision of [insert citation] for a person acting
6 under color of law to intercept the wire or electronic communications of a suspected computer
7 trespasser transmitted to, through, or from a computer or any other device with Internet
8 capability, if:

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 (1) the owner or operator of the computer or other device authorizes the
10 interception of the computer trespasser’s wire or electronic communications on the computer;

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 (2) the person acting under color of law is lawfully engaged in an investigation;

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 (3) the person acting under color of law has reasonable grounds to believe that the
13 contents of the computer trespasser’s wire or electronic communications will be relevant to the
14 investigation; and

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 (4) such interception does not acquire communications other than those
16 transmitted to or from the computer trespasser.

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 (B) For purposes of this section, “computer trespasser” means a person who accesses a
18 computer or any other device with Internet capability without authorization and thus has no
19 reasonable expectation of privacy in any communication transmitted to, through, or from the
20 computer or other device. The term “computer trespasser” does not include a person known by
21 the owner or operator of the computer or other device with Internet capability to have an existing
22 contractual relationship with the owner or operator of the computer or other device for access to
23 all or part of the computer or other device.

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 (C) Any aggrieved person in any trial, hearing, or proceeding in or before any court or
25 other authority of this state may move to suppress the contents of any wire or electronic

26 communication intercepted in accordance with subsection (A) of this section, or evidence
27 derived therefrom, on the grounds that the communication was unlawfully intercepted or the
28 interception was not made in conformity with the provisions of this section. The motion shall be
29 made at least [10 days] before the trial, hearing, or proceeding unless there was no opportunity to
30 make the motion or the moving party was not aware of the grounds for the motion. Motions by
31 coincidees are to be heard in a single consolidated hearing. The court, upon the filing of such
32 motion by the aggrieved person, shall make available to the aggrieved person or their counsel for
33 inspection such portions of the intercepted communication, or evidence derived therefrom, as the
34 court determines to be in the interests of justice. If the motion is granted, the entire contents of all
35 intercepted wire or electronic communications obtained during or after any interception which is
36 determined to be in violation of [insert citation] or evidence derived therefrom, shall not be
37 received in evidence in the trial, hearing or proceeding. In addition to any other right to appeal,
38 the state shall have the right to appeal from an order granting a motion to suppress upon
39 certification to the court that the appeal is not taken for purposes of delay. The appeal shall be
40 taken within the time specified by the [Rules of Court] and shall be diligently prosecuted.

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42 Section 3. [*Severability.*] [Insert severability clause.]

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44 Section 4. [*Repealer.*] [Insert repealer clause.]

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46 Section 5. [*Effective Date.*] [Insert effective date.]