

HB0369S01 compared with HB0369

~~deleted text~~ shows text that was in HB0369 but was deleted in HB0369S01.

inserted text shows text that was not in HB0369 but was inserted into HB0369S01.

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Representative John Knotwell proposes the following substitute bill:

ELECTRONIC DEVICE LOCATION DATA AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Knotwell

Senate Sponsor: _____

LONG TITLE

General Description:

This bill allows a government entity to collect anonymous electronic data.

Highlighted Provisions:

This bill:

- ▶ allows a government entity to collect anonymous electronic data; and
- ▶ prohibits the use of the collected data in a judicial proceeding.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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77-23c-102, as enacted by Laws of Utah 2014, Chapter 223 and last amended by
Coordination Clause, Laws of Utah 2014, Chapter 223

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-23c-102 is amended to read:

77-23c-102. Location information privacy -- Warrant required for disclosure.

(1) (a) Except as provided in Subsection (2), a government entity may not obtain the location information, stored data, or transmitted data of an electronic device without a search warrant issued by a court upon probable cause.

(b) Except as provided in Subsection (1)(c), a government entity may not use, copy, or disclose, for any purpose, the location information, stored data, or transmitted data of an electronic device that is not the subject of the warrant that is collected as part of an effort to obtain the location information, stored data, or transmitted data of the electronic device that is the subject of the warrant in Subsection (1)(a).

(c) A government entity may use, copy, or disclose the transmitted data of an electronic device used to communicate with the electronic device that is the subject of the warrant if the government entity reasonably believes that the transmitted data is necessary to achieve the objective of the warrant.

(d) The data described in Subsection (1)(b) shall be destroyed in an unrecoverable manner by the government entity as soon as reasonably possible after the data is collected.

(2) (a) A government entity may obtain location information without a warrant for an electronic device:

- (i) in accordance with Section 53-10-104.5;
- (ii) if the device is reported stolen by the owner;
- (iii) with the informed, affirmative consent of the owner or user of the electronic device;
- (iv) in accordance with judicially recognized exceptions to warrant requirements; or
- (v) if the owner has voluntarily and publicly disclosed the location information.

(b) A prosecutor may obtain a judicial order as defined in Section 77-22-2.5 for the purposes enumerated in Section 77-22-2.5.

(3) An electronic communication service provider, its officers, employees, agents, or

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other specified persons may not be held liable for providing information, facilities, or assistance in accordance with the terms of the warrant issued under this section or without a warrant pursuant to Subsection (2).

(4) (a) Notwithstanding Subsections (1) through (3), a government entity may ~~collect~~ receive and utilize electronic data ~~as long as it is obtained in~~ containing the location information of an electronic device from a ~~manner that, prior to receipt by a government~~ non-government entity ~~, maintains the anonymity of the information~~ as long as the electronic data contains no information that includes, or may reveal, the identity of an individual.

(b) Electronic data collected in accordance with this ~~subsection~~ section may not be used ~~as evidence in a judicial proceeding.~~

Legislative Review Note

~~Office of Legislative Research and General Counsel~~ for investigative purposes by a law enforcement agency.