

1 **Electronic Information Privacy Act Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jason B. Kyle**

Senate Sponsor:

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**LONG TITLE****General Description:**

5 This bill amends the Electronic Information Privacy Act.

**Highlighted Provisions:**

7 This bill:

- 8 ▶ amends and clarifies definitions;
- 9 ▶ clarifies and amends procedures and requirements for a law enforcement agency that
- 10 seeks to obtain, use, copy, or disclose certain electronic information or records;

11 ▶ provides that the procedures and requirements described in the Electronic Information  
12 Privacy Act (act) are the only permissible methods for a law enforcement agency to  
13 obtain, use, copy, disclose, or otherwise access certain electronic information or records;

14 ▶ prohibits a law enforcement agency from contracting with or otherwise using a third party  
15 to obtain, use, copy, disclose, or otherwise access certain electronic information or  
16 records in a manner that the law enforcement agency would be prohibited from doing  
17 directly;

18 ▶ provides that electronic information or records obtained in violation of the applicable  
19 procedures and requirements of the act, as well as any evidence derived from the  
20 electronic information or records, are subject to the same rules governing exclusion of  
21 evidence obtained in violation of constitutional requirements; and

- 22 ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

24 None

**Other Special Clauses:**

26 None

**Utah Code Sections Affected:****AMENDS:**

29 **77-23c-101.2**, as last amended by Laws of Utah 2023, Chapter 382

30 **77-23c-102**, as last amended by Laws of Utah 2023, Chapters 382, 514

31       **77-23c-103**, as last amended by Laws of Utah 2023, Chapter 382

32       **77-23c-104**, as last amended by Laws of Utah 2023, Chapter 382

33       **77-23c-105**, as enacted by Laws of Utah 2019, Chapter 362

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

35           Section 1. Section **77-23c-101.2** is amended to read:

36           **77-23c-101.2 . Definitions.**

37           As used in this chapter:

38       (1) "Electronic communication service" means a service that provides to users of the  
39           service the ability to send or receive wire or electronic communications.

40       (2) "Electronic device" means a device that enables access to or use of an electronic  
41           communication service, remote computing service, or location information service.

42       (3)(a) "Electronic information" means information or data including a sign, signal,  
43           writing, image, sound, or intelligence of any nature transmitted or stored in whole or  
44           in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

45       (b) "Electronic information" includes the location information, stored data, or  
46           transmitted data of an electronic device.

47       (c) "Electronic information" does not include:

48           (i) a wire or oral communication;

49           (ii) a communication made through a tone-only paging device; or

50           (iii) electronic funds transfer information stored by a financial institution in a  
51           communications system used for the electronic storage and transfer of money.

52       (4) "Law enforcement agency" means:

53           (a) an entity of the state or a political subdivision of the state that exists to primarily  
54           prevent, detect, or prosecute crime and enforce criminal statutes or ordinances; or

55           (b) an individual or entity acting for or on behalf of an entity described in Subsection  
56           (4)(a).

57       (5)(a) "Location information" means information concerning the geographical location  
58           of an electronic device that, in whole or in part, is generated or derived from or  
59           obtained by the operation of an electronic device or the operation of a software  
60           application on an electronic device.

61       (b) "Location information" includes past, current, and future location information.

62       (6) "Location information service" means the provision of a global positioning service or  
63           other mapping, location, or directional information service.

65 (7) "Oral communication" means the same as that term is defined in Section 77-23a-3.

66 (8) "Remote computing service" means the provision to the public of computer storage or

67 processing services by means of an electronic communications system.

68 (9) "Subscriber record" means a record or information that:

69 (a)(i) is in the possession of a provider of an electronic communication service or a  
70 remote computing service;

71 (ii) is created or maintained by a provider of an electronic communication service or  
72 a remote computing service; or

73 (iii) is received from, or derived from, a record or information originally possessed,  
74 created, or maintained by a provider of an electronic communication service or a  
75 remote computing service; and

76 (b) reveals a subscriber's or customer's:

77 (i) name;

78 (ii) address;

79 (iii) local or long distance telephone connection record, or record of session time and  
80 duration;

81 (iv) length of service, including the start date;

82 (v) type of service used;

83 (vi) telephone number, instrument number, or other subscriber or customer number or  
84 identification, including a temporarily assigned network address; or

85 (vii) means or source of payment to the electronic communication service or a remote  
86 computing service, including a credit card or bank account number.

87 [(9)] (10) "Transmitted data" means electronic information that is transmitted wirelessly:

88 (a) from an electronic device to another electronic device without the use of an  
89 intermediate connection or relay; or

90 (b) from an electronic device to a nearby antenna or from a nearby antenna to an  
91 electronic device.

92 [(10)] (11) "Wire communication" means the same as that term is defined in Section  
93 77-23a-3.

94 Section 2. Section **77-23c-102** is amended to read:

95 **77-23c-102 . Electronic information privacy -- Warrant required for disclosure --**

96 **Exceptions.**

97 (1)(a) Except as provided in Subsection (2) or (4) and subject to Section 77-23c-105, for  
98 a criminal investigation or prosecution, a law enforcement agency may not obtain, [

99 without] copy, or use the following information or data except through the use of a  
100 search warrant issued by a court upon probable cause:

101 (i) the location information, stored data, or transmitted data of an electronic device; or  
102 (ii) electronic information transmitted by the owner of the electronic information:  
103 (A) to a provider of a remote computing service; or  
104 (B) through a provider of an electronic communication service.

105 (b)(i) Except as provided in Subsection (1)(b)(ii) and subject to Subsection (1)(c), [a]  
106 if a law enforcement agency, in response to a warrant obtained under Subsection  
107 (1)(a), obtains information or data described in Subsection (1)(a)(i) or (ii), the law  
108 enforcement agency may not use, copy, or disclose, for any purpose, [the location  
109 information, stored data, or transmitted data of an electronic device, or electronic  
110 information provided by a provider of a remote computing service or an electronic  
111 communication service,] any information or data described in Subsection (1)(a)(i)  
112 or (ii) that:

113 [(i)] (A) is not the subject of the warrant obtained under Subsection (1)(a); and  
114 [(ii)] (B) is collected as part of an effort to obtain the [location information, stored  
115 data, or transmitted data of an electronic device, or electronic information  
116 provided by a provider of a remote computing service or an electronic  
117 communication service] information or data described in Subsection (1)(a)(i) or  
118 (ii) that is the subject of the warrant [in] obtained under Subsection (1)(a).

119 [(e)] (ii) A law enforcement agency may use, copy, or disclose the transmitted data of  
120 an electronic device used to communicate with the electronic device that is the  
121 subject of the warrant if the law enforcement agency reasonably believes that the  
122 transmitted data is necessary to achieve the objective of the warrant.

123 [(d)] (c) The electronic information described in Subsection (1)(b) shall be destroyed in  
124 an unrecoverable manner by the law enforcement agency as soon as reasonably  
125 possible after the electronic information is collected.

126 (2)(a) [A] Except as provided in Subsection (2)(c) and subject to Section 77-23c-105, a  
127 law enforcement agency may obtain location information without a warrant for an  
128 electronic device only:

129 (i) in accordance with Section 53-10-104.5;  
130 (ii) if the device is reported stolen by the owner;  
131 (iii) with the informed, affirmative consent of the owner or user of the electronic  
132 device;

133 (iv) except for the automobile exception to the warrant requirement, in accordance  
134 with a judicially recognized exception to warrant requirements;

135 (v) if the owner has voluntarily and publicly disclosed the location information; or  
136 (vi) from a provider of a remote computing service or an electronic communications  
137 service if the provider voluntarily discloses the location information:  
138 (A) under a belief that an emergency exists involving an imminent risk to an  
139 individual of death, serious physical injury, sexual abuse, live-streamed sexual  
140 exploitation, kidnapping, or human trafficking; or  
141 (B) that is inadvertently discovered by the provider and appears to pertain to the  
142 commission of a felony, or of a misdemeanor involving physical violence,  
143 sexual abuse, or dishonesty.

144 (b) [A] Except as provided in Subsection (2)(c) and subject to Section 77-23c-105, a law  
145 enforcement agency may obtain stored data or transmitted data from an electronic  
146 device or electronic information transmitted by the owner of the electronic  
147 information to a provider of a remote computing service or through a provider of an  
148 electronic communication service, without a warrant, only:  
149 (i) with the informed consent of the owner of the electronic device or electronic  
150 information;  
151 (ii) except for the automobile exception to the warrant requirement, in accordance  
152 with a judicially recognized exception to warrant requirements; or  
153 (iii) subject to Subsection (2)(a)(vi)(B), from a provider of a remote computing  
154 service or an electronic communication service if the provider voluntarily  
155 discloses the stored or transmitted data as otherwise permitted under 18 U.S.C.  
156 Sec. 2702.

157 (c) A prosecutor may obtain a judicial order as described in Section 77-22-2.5 for the  
158 purposes described in Section 77-22-2.5.

159 (3) A provider of an electronic communication service or a remote computing service, the  
160 provider's officers, employees, or agents, or other specified persons may not be held  
161 liable for providing information, facilities, or assistance in good faith reliance on the  
162 terms of [the] a warrant issued under this section or without a warrant in accordance with  
163 Subsection (2).

164 (4) Nothing in this chapter:  
165 (a) limits or affects the disclosure of public records under Title 63G, Chapter 2,  
166 Government Records Access and Management Act;

167 (b) affects the rights of an employer under Subsection 34-48-202(1)(e) or an  
168 administrative rule adopted under Section 63A-16-205; or  
169 (c) limits the ability of a law enforcement agency to receive or use information, without  
170 a warrant or subpoena, from the National Center for Missing and Exploited Children  
171 under 18 U.S.C. Sec. 2258A.

172 Section 3. Section **77-23c-103** is amended to read:

173 **77-23c-103 . Notification required -- Exceptions -- Delayed notification.**

174 (1)(a) Except as provided in Subsection (1)(b) or (2), a law enforcement agency that  
175 executes a warrant under ~~[Subseetion 77-23c-102(1) or 77-23c-104(3)] Section~~  
176 ~~77-23c-102 or 77-23c-104~~ shall serve the owner of the electronic device or electronic  
177 information specified in the warrant with a notice described in Subsection (3):  
178 (i) within 90 days after the day on which the electronic device or the electronic  
179 information is obtained by the law enforcement agency but in no case more than  
180 three days after the day on which the investigation is concluded; or  
181 (ii) if the owner of the electronic device or electronic information specified in the  
182 warrant is unknown to the law enforcement agency, within 90 days after the day  
183 on which the law enforcement agency identifies, or reasonably could identify, the  
184 owner.  
185 (b) A law enforcement agency is not required to serve a notice described in Subsection  
186 (1)(a) to the owner of the electronic device or electronic information if the owner is  
187 located outside of the United States.  
188 (2)(a)(i) A law enforcement agency seeking a warrant in accordance with ~~[Subseetion~~  
189 ~~77-23c-102(1)(a) or 77-23c-104(3)] Section~~ 77-23c-102 or 77-23c-104 may submit  
190 a request, and the court may grant permission, to delay service of the notice  
191 required under Subsection (1) for a period not to exceed 30 days, if the court  
192 determines that there is reasonable cause to believe that the notification may:  
193 (A) endanger the life or physical safety of an individual;  
194 (B) cause a person to flee from prosecution;  
195 (C) lead to the destruction of or tampering with evidence;  
196 (D) intimidate a potential witness; or  
197 (E) otherwise seriously jeopardize an investigation or unduly delay a trial.  
198 (ii) When a delay of notification is granted under Subsection (2)(a)(i) and upon  
199 application by the law enforcement agency, the court may grant additional  
200 extensions of up to 30 days each.

201 (b)(i) A law enforcement agency that seeks a warrant for an electronic device or  
202 electronic information in accordance with [Subsection 77-23e-102(1)(a) or  
203 77-23e-104(3)] Section 77-23c-102 or 77-23c-104 may submit a request to the  
204 court, and the court may grant permission, to delay service of the notice required  
205 under Subsection (1), if the purpose of delaying the notification is to apprehend an  
206 individual:

207 (A) who is a fugitive from justice under Section 77-30-13; and  
208 (B) for whom an arrest warrant has been issued for a violent felony offense as  
209 defined in Section 76-3-203.5.

210 (ii)(A) The court may grant the request under Subsection (2)(b)(i) to delay  
211 notification until the individual who is a fugitive from justice under Section  
212 77-30-13 is apprehended by the law enforcement agency.  
213 (B) A law enforcement agency shall serve the notice required under Subsection (1)  
214 to the owner of the electronic device or electronic information within 14 days  
215 after the day on which the law enforcement agency apprehends the individual  
216 described in Subsection (2)(b)(i).

217 (3) A notice required under Subsection (1) shall include:

218 (a) a copy of the warrant; and  
219 (b) a written statement identifying:  
220 (i) the offense specified in the warrant application;  
221 (ii) the identity of the law enforcement agency that filed the application;  
222 (iii) the date on which the electronic information was obtained; and  
223 (iv) the number and length of any authorized delays in serving the notice required  
224 under Subsection (1), including, if applicable, the name of the court that  
225 authorized the delay and a reference to the provision of this chapter that permitted  
226 the delay.

227 (4) A law enforcement agency shall serve the notice required under Subsection (1) to the  
228 owner of the electronic device or electronic information by:  
229 (a) personal service on the owner;  
230 (b) first-class mail to the owner's last-known address; or  
231 (c) other reasonable means if the owner's last-known address is unknown.

232 Section 4. Section **77-23c-104** is amended to read:

233 **77-23c-104 . Third-party electronic information and records.**

234 [({1}) As used in this section, "subscriber record" means a record or information of a provider

235 of an electronic communication service or remote computing service that reveals the  
236 subscriber's or customer's:]

237 [(a) name;]

238 [(b) address;]

239 [(c) local and long distance telephone connection record, or record of session time and  
240 duration;]

241 [(d) length of service, including the start date;]

242 [(e) type of service used;]

243 [(f) telephone number, instrument number, or other subscriber or customer number or  
244 identification, including a temporarily assigned network address; and]

245 [(g) means and source of payment for the service, including a credit card or bank  
246 account number.]

247 [(2)] (1) Except as provided in [Chapter 22, Subpoena Powers for Aid of Criminal  
248 Investigation and Grants of Immunity or Section 77-23f-105,] Section 77-22-2.5 or  
249 Subsection (2), and subject to Section 77-23c-105, a law enforcement agency may not,  
250 except through the use of a search warrant issued by a court upon probable cause,  
251 obtain, use, copy, or disclose[-] :

252 (a) a subscriber record[-] ; or

253 [(3)] (b) [A law enforcement agency may not obtain, use, copy, or disclose,] for a  
254 criminal investigation or prosecution, any record or information related to a  
255 subscriber or a customer, other than a subscriber record, [of a] that is:

256 (i) in the possession of a provider of an electronic communication service or a remote  
257 computing service[- related to a subscriber or customer without a warrant.] ;

258 (ii) created or maintained by a provider of an electronic communication service or a  
259 remote computing service; or

260 (iii) received from, or derived from, a record or information originally possessed,  
261 created, or maintained by a provider of an electronic communication service or a  
262 remote computing service.

263 [(4)] (2) [Notwithstanding Subsections (2) and (3), a] Subject to Section 77-23c-105, a law  
264 enforcement agency may obtain, use, copy, or disclose a subscriber record, or other  
265 record or information related to a subscriber or customer described in Subsection (1)(b),  
266 without an investigative subpoena or a warrant, only:

267 (a) with the informed, affirmed consent of the subscriber or customer;

268 (b) in accordance with a judicially recognized exception to warrant requirements;

269 (c) if the subscriber or customer voluntarily discloses the record in a manner that is  
270 publicly accessible; or  
271 (d) if the provider of an electronic communication service or remote computing service  
272 voluntarily discloses the record:  
273 (i) under a belief that an emergency exists involving the imminent risk to an  
274 individual of:  
275 (A) death;  
276 (B) serious physical injury;  
277 (C) sexual abuse;  
278 (D) live-streamed sexual exploitation;  
279 (E) kidnapping; or  
280 (F) human trafficking;  
281 (ii) that is inadvertently discovered by the provider, if the record appears to pertain to  
282 the commission of:  
283 (A) a felony; or  
284 (B) a misdemeanor involving physical violence, sexual abuse, or dishonesty; or  
285 (iii) subject to Subsection [77-23c-104(4)(d)(ii)] (2)(d)(ii), as otherwise permitted  
286 under 18 U.S.C. Sec. 2702.

287 [§5] (3) A provider of an electronic communication service or remote computing service, or  
288 the provider's officers, employees, agents, or other specified persons may not be held  
289 liable for providing information, facilities, or assistance in good faith reliance on the  
290 terms of a warrant issued under this section, or without a warrant in accordance with  
291 Subsection [(3)] (2).

292 Section 5. Section **77-23c-105** is amended to read:

293 **77-23c-105 . Chapter is exclusive method of obtaining, using, copying, or**  
294 **disclosing electronic information or records -- Exclusion of electronic information or**  
295 **records obtained, used, copied, or disclosed in violation of this chapter.**

296 [ All electronic ]

297 (1) A law enforcement agency may only obtain, use, copy, disclose, or otherwise access  
298 electronic information or a record described in this chapter if the law enforcement  
299 agency has complied with the applicable procedures and requirements provided under  
300 this chapter.

301 (2) A law enforcement agency may not contract with or otherwise use a third party,  
302 including a federal agency, an agency in a different state, or an agency in a different

303 country, to obtain, use, copy, disclose, or otherwise access electronic information or a  
304 record described in this chapter in a manner that the law enforcement agency would be  
305 prohibited from doing directly under this chapter.

306 (3)(a) Electronic information [or data and records of a provider of an electronic  
307 communications service or remote computing service pertaining to a subscriber or  
308 customer] or records described in this chapter that are obtained, used, copied,  
309 disclosed, or otherwise accessed in violation of the provisions of this chapter shall be  
310 subject to the rules governing exclusion as if the electronic information or records  
311 were obtained, used, copied, disclosed, or otherwise accessed in violation of the  
312 Fourth Amendment to the United States Constitution and Utah Constitution, Article I,  
313 Section 14.

314 (b) Evidence derived from electronic information or records described in Subsection  
315 (3)(a) shall be subject to the rules governing exclusion as if the evidence were  
316 obtained, used, copied, disclosed, or otherwise accessed in violation of the Fourth  
317 Amendment to the United States Constitution and Utah Constitution, Article I,  
318 Section 14.

319 **Section 6. Effective Date.**

320 This bill takes effect on May 6, 2026.