

Effective 7/1/2014

Chapter 23c
Location Privacy for Electronic Devices

77-23c-101 Definitions.

As used in this chapter:

- (1) "Electronic communication service" means a service that provides to users of the service the ability to send or receive wire or electronic communications.
- (2) "Electronic device" means a device that enables access to or use of an electronic communication service, remote computing service, or location information service.
- (3) "Government entity" means the state, a county, a municipality, a higher education institution, a local district, a special service district, or any other political subdivision of the state or an administrative subunit of any political subdivision, including a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission, or an individual acting or purporting to act for or on behalf of a state or local agency.
- (4) "Location information" means information concerning the location of an electronic device that, in whole or in part, is generated or derived from or obtained by the operation of an electronic device.
- (5) "Location information service" means the provision of a global positioning service or other mapping, location, or directional information service.
- (6) "Remote computing service" means the provision of computer storage or processing services by means of an electronic communications system.

Enacted by Chapter 223, 2014 General Session

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 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 receive and utilize electronic data containing the location information of an electronic device from a non-government entity 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 may not be used for investigative purposes by a law enforcement agency.

Amended by Chapter 161, 2016 General Session

77-23c-103 Notification required -- Delayed notification.

- (1) Except as provided in Subsection (2), a government entity that executes a warrant pursuant to Subsection 77-23c-102(1)(a) shall, within 14 days after the day on which the operation concludes, issue a notification to the owner of the electronic device specified in the warrant that states:
 - (a) that a warrant was applied for and granted;
 - (b) the kind of warrant issued;
 - (c) the period of time during which the collection of data from the electronic device was authorized;
 - (d) the offense specified in the application for the warrant;
 - (e) the identity of the government entity that filed the application; and
 - (f) the identity of the judge who issued the warrant.
- (2) A government entity seeking a warrant pursuant to Subsection 77-23c-102(1)(a) may submit a request, and the court may grant permission, to delay the notification required by Subsection (1) for a period not to exceed 30 days, if the court determines that there is probable cause to believe that the notification may:
 - (a) endanger the life or physical safety of an individual;
 - (b) cause a person to flee from prosecution;
 - (c) lead to the destruction of or tampering with evidence;
 - (d) intimidate a potential witness; or
 - (e) otherwise seriously jeopardize an investigation or unduly delay a trial.
- (3) When a delay of notification is granted under Subsection (2) and upon application by the government entity, the court may grant additional extensions of up to 30 days each.
- (4) Upon expiration of the period of delayed notification granted under Subsection (2) or (3), the government entity shall serve upon or deliver by first-class mail to the owner of the electronic device a copy of the warrant together with notice that:
 - (a) states with reasonable specificity the nature of the law enforcement inquiry; and
 - (b) contains:
 - (i) the information described in Subsections (1)(a) through (f);
 - (ii) a statement that notification of the search was delayed;

- (iii) the name of the court that authorized the delay of notification; and
 - (iv) a reference to the provision of this chapter that allowed the delay of notification.
- (5) A government entity is not required to notify the owner of the electronic device if the owner is located outside of the United States.

Enacted by Chapter 223, 2014 General Session