

Representative Ryan D. Wilcox proposes the following substitute bill:

ELECTRONIC DEVICE LOCATION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Mark B. Madsen

LONG TITLE

General Description:

This bill requires that a governmental entity obtain a search warrant before obtaining the location information of an electronic device.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a search warrant before requesting disclosure of the location of an electronic device;
- ▶ provides exceptions for emergencies; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

→ This bill takes effect on July 1, 2014. ←

This bill coordinates with S.B. 46, Administrative Subpoena Requirement Modifications, by providing technical and substantive amendments.

Utah Code Sections Affected:

ENACTS:

77-23c-101, Utah Code Annotated 1953



57 warrant issued by a court upon probable cause.

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

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

67 (d) The data described in Subsection (1)(b) shall be destroyed in an unrecoverable
 68 manner by the government entity ~~Ĥ→~~ [no later than 24 hours] as soon as reasonably possible ~~←Ĥ~~
 68a after the data is collected.

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

71 (a) in accordance with Section 53-10-104.5;

72 (b) if the device is reported stolen by the owner;

73 (c) with the informed, affirmative consent of the owner or user of the electronic device;

74 (d) in accordance with judicially recognized exceptions to warrant requirements;

74a ~~Ŝ→~~ [or] ~~←Ŝ~~

75 (e) if the owner has voluntarily and publicly disclosed the location information ~~Ŝ→~~ ; or

75a (f) if the device is state-owned or is being used by a state employee to access private
 75b data on the state network while conducting state business ~~←Ŝ~~ .

76 (3) An electronic communication service provider, its officers, employees, agents, or
 77 other specified persons may not be held liable for providing information, facilities, or
 78 assistance in accordance with the terms of the warrant issued under this section ~~Ĥ→~~ or without a
 78a warrant pursuant to Subsection (2) ~~←Ĥ~~ .

79 Section 3. Section 77-23c-103 is enacted to read:

80 **77-23c-103. Notification required -- Delayed notification.**

81 (1) Except as provided in Subsection (2), a government entity that executes a warrant
 82 pursuant to Subsection 77-23c-102(1)(a) shall, within 14 days after the day on which the
 83 operation ~~Ŝ→~~ [commences] concludes ~~←Ŝ~~ , issue a notification to the owner of the electronic
 83a device specified in the
 84 warrant that states:

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

121 (i) in accordance with Section [53-10-104.5](#);

122 (ii) if the device is reported stolen by the owner;

123 (iii) with the informed, affirmative consent of the owner or user of the electronic
124 device;

125 (iv) in accordance with judicially recognized exceptions to warrant requirements; or

126 (v) if the owner has voluntarily and publicly disclosed the location information.

127 (b) A prosecutor may obtain a judicial order as defined in Section [77-22-2.5](#) for the
128 purposes enumerated in Section [77-22-2.5](#)."

128a **Ĥ→ Section 5. Effective date.**

128b **This bill takes effect July 1, 2014. ←Ĥ**