



- 28 [77-23d-103](#), Utah Code Annotated 1953
- 29 [77-23d-104](#), Utah Code Annotated 1953
- 30 [77-23d-105](#), Utah Code Annotated 1953



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

33 Section 1. Section **77-23d-101** is enacted to read:

34 **CHAPTER 23d. IMAGING SURVEILLANCE PRIVACY**

35 **77-23d-101. Title.**

36 This chapter is known as "Imaging Surveillance Privacy."

37 Section 2. Section **77-23d-102** is enacted to read:

38 **77-23d-102. Definitions.**

39 As used in this chapter:

40 (1) "Government entity" means the state, a county, a municipality, a higher education  
41 institution, a local district, a special service district, or any other political subdivision of the  
42 state or an administrative subunit of any political subdivision, including a law enforcement  
43 entity or any other investigative entity, agency, department, division, bureau, board, or  
44 commission, or an individual acting or purporting to act for or on behalf of a state or local  
45 agency.

46 (2) "Imaging surveillance device" means a device that uses radar, sonar, infrared, or  
47 other remote sensing or detection technology that enables the individual operating the device to  
48 obtain information, not otherwise directly observable, about individuals, items, or activities  
49 within a closed structure.

50 (3) "Target" means a person or a structure upon which a government entity  
51 intentionally collects or attempts to collect information using an imaging surveillance device.

52 Section 3. Section **77-23d-103** is enacted to read:

53 **77-23d-103. Use of imaging surveillance device -- Warrant required -- Exceptions.**

54 (1) Except as provided in Subsection (2), a government entity may not operate an  
55 imaging surveillance device without a search or arrest warrant issued upon probable cause.

56 (2) A government entity may operate an imaging surveillance device without a search  
57 or arrest warrant:

58 (a) for testing equipment or training if the testing or training:

- 59 (i) is not conducted as part of an investigation or law enforcement activity; and  
60 (ii) is conducted with the knowledge and consent of:  
61 (A) each individual who is imaged; and  
62 (B) each owner of the property that is imaged;  
63 (b) in exigent circumstances; or  
64 (c) in fresh pursuit of a person suspected of committing a felony.  
65 (3) A government entity may not operate an imaging surveillance device when  
66 executing a search or arrest warrant unless the application for the warrant:  
67 (a) indicates that the government entity intends to use an imaging surveillance device;  
68 (b) describes the capabilities of the imaging surveillance device; and  
69 (c) describes the measures that the government entity will take to avoid the technology  
70 being used in a manner that is beyond the scope of the warrant.

71 Section 4. Section **77-23d-104** is enacted to read:

72 **77-23d-104. Notification required -- Delayed notification.**

- 73 (1) Except as provided in Subsection (2), a government entity that executes a search or  
74 arrest warrant that authorizes the use of an imaging surveillance device shall, within 14 days  
75 after the day on which the warrant is executed, provide notice to the individual who owns,  
76 resides in, or rents the structure specified in the warrant that states:  
77 (a) that a warrant was applied for and granted;  
78 (b) the type of warrant issued;  
79 (c) the period of time during which the collection of data from the structure was  
80 authorized;  
81 (d) the offense specified in the application for the warrant;  
82 (e) the identity of the government entity that filed the application; and  
83 (f) the identity of the judge who issued the warrant.  
84 (2) A government entity seeking a warrant described in Subsection [77-23d-103](#)(1) may  
85 submit a request, and the court may grant permission, to delay the notification described in  
86 Subsection (1) for a period not to exceed 30 days, if the court determines that there is probable  
87 cause to believe that the notification may:  
88 (a) endanger the life or physical safety of an individual;  
89 (b) cause an individual to flee from prosecution;

- 90 (c) lead to the destruction of or tampering with evidence;  
91 (d) result in the intimidation of a potential witness; or  
92 (e) otherwise seriously jeopardize an investigation or unduly delay a trial.  
93 (3) When a delay of notification is granted under Subsection (2), and upon application  
94 by the government entity, the court may grant additional extensions of up to 30 days each.  
95 (4) Upon expiration of the period of delayed notification granted under Subsection (2)  
96 or (3), the government entity shall serve upon or deliver by first-class mail to the individual  
97 who owns, resides in, or rents the structure specified in the warrant a copy of the warrant  
98 together with a notice that:  
99 (a) states with reasonable specificity the nature of the law enforcement inquiry; and  
100 (b) contains:  
101 (i) the information described in Subsections (1)(a) through (f);  
102 (ii) a statement that notification of the search was delayed;  
103 (iii) the name of the court that authorized the delay of notification; and  
104 (iv) a reference to the provision of this chapter that allowed the delay of notification.  
105 (5) A government entity is not required to notify the owner of a structure if the owner  
106 is located outside of the United States.  
107 Section 5. Section **77-23d-105** is enacted to read:  
108 **77-23d-105. Data use and retention.**  
109 (1) Except as provided in Subsection (2), a government entity:  
110 (a) may not use, copy, or disclose data collected using an imaging surveillance device  
111 on an individual or structure that is not a target; and  
112 (b) shall ensure that data described in Subsection (1)(a) is destroyed as soon as  
113 reasonably possible after the government entity collects or receives the data.  
114 (2) A government entity is not required to comply with Subsection (1) if:  
115 (a) deleting the data would also require the deletion of data that:  
116 (i) relates to the target of the operation; and  
117 (ii) is requisite for the success of the operation;  
118 (b) the government entity receives the data:  
119 (i) through a court order that:  
120 (A) requires a person to release the data to the government entity; or

- 121           (B) prohibits the destruction of the data; or  
122           (ii) from a person who is a nongovernment actor;  
123           (c) (i) the data was collected inadvertently; and  
124           (ii) the data appears to pertain to the commission of a crime; or  
125           (d) (i) the government entity reasonably determines that the data pertains to an  
126 emergency situation; and  
127           (ii) using or disclosing the data would assist in remedying the emergency.
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**Legislative Review Note**  
**as of 2-10-15 9:42 AM**

**Office of Legislative Research and General Counsel**