

ELECTRONIC DEVICE LOCATION DATA AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Knotwell

Senate Sponsor: Mark B. Madsen

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:

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

30 disclose, for any purpose, the location information, stored data, or transmitted data of an
31 electronic device that is not the subject of the warrant that is collected as part of an effort to
32 obtain the location information, stored data, or transmitted data of the electronic device that is
33 the subject of the warrant in Subsection (1)(a).

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

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

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

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

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

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

54 (4) (a) Notwithstanding Subsections (1) through (3), a government entity may receive
55 and utilize electronic data containing the location information of an electronic device from a
56 non-government entity as long as the electronic data contains no information that includes, or
57 may reveal, the identity of an individual.

58 (b) Electronic data collected in accordance with this subsection may not be used for
59 investigative purposes by a law enforcement agency.