

88 ~~[without a search warrant issued by a court upon probable cause.]; or~~

89 (ii) electronic information or data transmitted by the owner of the electronic  
90 information or data to a remote computing service provider.

91 (b) Except as provided in Subsection (1)(c), a ~~[government entity]~~ law enforcement  
92 agency may not use, copy, or disclose, for any purpose, the location information, stored data,  
93 ~~[or]~~ transmitted data of an electronic device, or electronic information or data provided by a  
94 remote computing service provider, that ~~[is not the subject of the warrant that is collected as~~  
95 part of an effort to obtain the location information, stored data, or transmitted data of the  
96 electronic device that is the subject of the warrant in Subsection (1)(a).];

97 (i) is not the subject of the warrant; and

98 (ii) is ~~H~~→ **[incidentally]** ←~~H~~ collected as part of an effort to obtain the location  
98a information,  
99 stored data, transmitted data of an electronic device, or electronic information or data provided  
100 by a remote computing service provider that is the subject of the warrant in Subsection (1)(a).

101 (c) A ~~[government entity]~~ law enforcement agency may use, copy, or disclose the  
102 transmitted data of an electronic device used to communicate with the electronic device that is  
103 the subject of the warrant if the ~~[government entity]~~ law enforcement agency reasonably  
104 believes that the transmitted data is necessary to achieve the objective of the warrant.

105 (d) The electronic information or data described in Subsection (1)(b) shall be destroyed  
106 in an unrecoverable manner by the ~~[government entity]~~ law enforcement agency as soon as  
107 reasonably possible after the electronic information or data is collected.

108 (2) (a) A ~~[government entity]~~ law enforcement agency may obtain location information  
109 without a warrant for an electronic device:

110 (i) in accordance with Section 53-10-104.5;

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

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

114 (iv) in accordance with a judicially recognized ~~[exceptions]~~ exception to warrant  
115 requirements; ~~[or]~~

116 (v) if the owner has voluntarily and publicly disclosed the location information~~[-]; or~~

117 (vi) from the remote computing service provider if the remote computing service  
118 provider voluntarily discloses the location information:

212 use, copy, or disclose a subscriber record without a warrant:

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

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

215 (c) if the subscriber or customer voluntarily discloses the subscriber record in a manner

216 that is publicly accessible; or

217 (d) if the provider of an electronic communication service or remote computing service

218 voluntarily discloses the subscriber record:

219 (i) under a belief that an emergency exists involving the imminent risk to an individual

220 of:

221 (A) death;

222 (B) serious physical injury;

223 (C) sexual abuse;

224 (D) live-streamed sexual exploitation;

225 (E) kidnapping; or

226 (F) human trafficking; or

227 (ii) that is inadvertently discovered by the provider, if the record appears to pertain to

228 the commission of:

229 (A) a felony; or

230 (B) a misdemeanor involving physical or sexual violence, or deception.

231 (5) A provider of an electronic communication service or remote computing service, or

232 the provider's officers, employees, agents, or other specified persons may not be held liable for

233 providing information, facilities, or assistance in good faith reliance on the terms of a warrant

234 issued under this section, or without a warrant in accordance with Subsection (3).

235 (6) Nothing in this chapter affects the rights of an employer under Subsection

236 34-48-202(1)(e) or an administrative rule adopted under Section 63F-1-206.

237 Section 6. Section **77-23c-105** is enacted to read:

238 **77-23c-105. Exclusion of records.**

239 All electronic information or data and records of a provider of an electronic

240 communications service or remote computing service pertaining to a subscriber or customer

241 that are obtained in violation of the provisions of this chapter shall be excluded ~~It~~ **subject to the**

241a **rules governing exclusion** ~~It~~ as if the records

242 were obtained in violation of the Fourth Amendment to the United States Constitution and