

Representative Ryan D. Wilcox proposes the following substitute bill:

ELECTRONIC LOCATION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill addresses access to and use of reverse-location data.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ places restrictions on and establishes procedures for the seeking or granting of access to reverse-location data;
- ▶ creates exceptions; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

77-23e-101, Utah Code Annotated 1953

77-23e-102, Utah Code Annotated 1953

77-23e-103, Utah Code Annotated 1953



26 77-23e-104, Utah Code Annotated 1953

27 77-23e-105, Utah Code Annotated 1953



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

30 Section 1. Section **77-23e-101** is enacted to read:

31 **CHAPTER 23e. REVERSE-LOCATION WARRANT ACT**

32 **77-23e-101. Title.**

33 This chapter is known as "Reverse-location Warrant Act."

34 Section 2. Section **77-23e-102** is enacted to read:

35 **77-23e-102. Definitions.**

36 As used in this chapter:

37 (1) "Anonymized" means identifying information connected to an electronic device has
38 been rendered anonymous in a manner that the subject, including an individual, household,
39 device, or Internet protocol (IP) address, is not identifiable.

40 (2) "Law enforcement agency" means an entity of the state or a political subdivision of
41 the state that exists to primarily prevent, detect, or prosecute crime and enforce criminal
42 statutes or ordinances, and includes an individual or entity acting for or on behalf of a law
43 enforcement agency.

44 (3) "Reverse-location data" means a record or information that:

45 (a) pertains to the location of an electronic device or the named user or owner of the
46 device; and

47 (b) has a scope that extends to an unknown number of electronic devices present in a
48 given geographic area at a given time, regardless of whether the location is measured by global
49 positioning coordinates, cell tower connectivity, wi-fi positioning, or other form of location
50 detection.

51 (4) "Reverse-location warrant" means a search warrant seeking reverse-location data.

52 (5) "Identifying information" means information tied to an electronic device that
53 identifies the user's or owner's:

54 (a) name;

55 (b) address;

56 (c) telephone number;

- 57 (d) email address;
- 58 (e) cellular network provider; or
- 59 (f) any other ~~that~~ **identifying** ~~information~~ **peculiar to** that would identify the
- 59a owner or user of ~~the~~ the electronic device.

60 Section 3. Section 77-23e-103 is enacted to read:

61 **77-23e-103. Warrant required to obtain reverse-location data from provider of**
62 **cellular services or application services.**

63 (1) A law enforcement agency must secure a reverse-location warrant to obtain
64 reverse-location data from a cellular network provider or other technology company that
65 provides application services for electronic devices.

66 (2) (a) The nature and extent of the reverse-location data that may be obtained under a
67 warrant depends upon the facts and circumstances obtained during the criminal investigation.

68 (b) To obtain a reverse-location warrant for anonymized reverse-location data within a
69 specified geographic area, a law enforcement agency shall, in the sworn warrant application:

70 (i) include a map or other visual depiction that represents the specified geographic area
71 for which the warrant is seeking data; ~~and~~ **and**

72 ~~and~~ **(ii) if feasible, provide the number of individuals that the law enforcement agency**
73 **estimates will be included within the scope of the warrant; and**

74 ~~(iii)] (ii)~~ **(ii)** establish probable cause that evidence of a crime will be found within the
75 specified geographic area and within a specified period of time.

76 (c) After executing a warrant described in Subsection (2)(b), a law enforcement agency
77 may obtain a reverse-location warrant for anonymized reverse-location data outside the
78 geographic area described in the initial warrant if the law enforcement agency ~~is~~ **is**:

79 ~~(i) if feasible, provides the number of individuals that the law enforcement agency~~
80 **estimates will be included within the scope of the warrant; and**

81 ~~(ii)] , ~~and~~ **and** in a sworn warrant application, establishes probable cause that evidence of a~~
81a crime

82 will be found outside the specified geographic area and within a specified period of time.

83 (d) To obtain a reverse-location warrant for identifying information connected to an
84 electronic device, a law enforcement agency shall, in the sworn warrant application, establish
85 probable cause that the user of the electronic device was involved in a crime.

86 (3) If a court grants a reverse-location warrant for anonymized data under Subsection
87 (2)(b) or (c), the court shall require that all data provided pursuant to the warrant be

88 anonymized before the data is released to the law enforcement agency, so that the law
89 enforcement agency will be unable to identify an individual from the provided data.

90 Section 4. Section **77-23e-104** is enacted to read:

91 **77-23e-104. Exceptions.**

92 Nothing in this chapter:

93 (1) limits or affects the disclosure of public records under Title 63G, Chapter 2,
94 Government Records Access and Management Act;

95 (2) affects the rights of an employer under Section [34-48-202](#) or an administrative rule
96 adopted under Section [63F-1-206](#);

97 (3) limits or affects the disclosure or use of records and information obtained through
98 the National Center for Missing and Exploited Children (NCMEC) under 18 U.S.C. Sec.
99 2258A; or

100 (4) prevents a law enforcement agency from obtaining reverse-location data under a
101 judicially recognized exception to the warrant requirement.

102 Section 5. Section **77-23e-105** is enacted to read:

103 **77-23e-105. Remedy for violation.**

104 Reverse-location data obtained in violation of the provisions of this chapter is subject to
105 the rules governing exclusion as if the records were obtained in violation of the Fourth
106 Amendment to the United States Constitution and Utah Constitution, Article I, Section 14.