

ELECTRONIC KEYWORD AND LOCATION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits the seeking or granting of a reverse-keyword or reverse-location court order;
- ▶ prohibits the request of reverse-keyword and reverse-location data; and
- ▶ prohibits the use of evidence derived from reverse-keyword or reverse-location data.

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
- 77-23e-104**, Utah Code Annotated 1953
- 77-23e-105**, Utah Code Annotated 1953



28 77-23e-106, Utah Code Annotated 1953



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

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

32 **CHAPTER 23e. ACCESS TO REVERSE-KEYWORD AND REVERSE-LOCATION**
33 **ELECTRONIC DATA**

34 **77-23e-101. Title.**

35 This chapter is known as "Access to Reverse-Keyword and Reverse-Location
36 Electronic Data."

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

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

39 As used in this chapter:

40 (1) "Governmental entity" means:

41 (a) the state, a county, a municipality, a higher education institution, a local district, a
42 special service district, or any other political subdivision of the state or an administrative
43 subunit of any political subdivision, including a law enforcement entity or any other
44 investigative entity, agency, department, division, bureau, board, or commission; or

45 (b) an individual or entity acting for or on behalf of an organization described in
46 Subsection (1)(a).

47 (2) "Reverse-keyword court order" means a court order, including a search warrant,
48 that:

49 (a) compels the disclosure of records or information identifying an unnamed person, by
50 name or other unique identifier, who:

51 (i) electronically searched for a particular word, phrase, or website; or

52 (ii) visited a particular website through a link generated by a search; and

53 (b) is or is not limited to a specific geographic area or time frame.

54 (3) "Reverse-keyword request" means a request, in the absence of a court order, by any
55 governmental entity, that:

56 (a) seeks the voluntary provision of records or information identifying an unnamed
57 person, by name or other unique identifier, who:

58 (i) electronically searched for a particular word, phrase, or website; or

- 59 (ii) visited a particular website through a link generated by a search; and
- 60 (b) is or is not limited to a specific geographic area or time frame.
- 61 (4) "Reverse-location court order" means a court order, including a search warrant,

62 that:

63 (a) compels the disclosure of records or information pertaining to the location of an
64 unspecified electronic device or the named user or owner of the device; and

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

69 (5) "Reverse-location request" means a request, in the absence of a court order, by a
70 governmental entity:

71 (a) that seeks the voluntary provision of records or information pertaining to the
72 location of an unspecified electronic device or the named user or owner of the device; and

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

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

78 **77-23e-103. Prohibitions on reverse-keyword and reverse-location court orders.**

79 (1) A governmental entity may not seek, from any court, a reverse-keyword court order
80 or a reverse-location court order.

81 (2) A court subject to the laws of the state may not issue a reverse-keyword court order
82 or a reverse-location court order.

83 (3) A governmental entity may not seek, secure, obtain, borrow, purchase, or review
84 any information or data obtained through a reverse-keyword court order or a reverse-location
85 court order.

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

87 **77-23e-104. Prohibitions on reverse-keyword and reverse-location requests.**

88 A governmental entity may not:

89 (1) make a reverse-keyword request or a reverse-location request; or

90 (2) seek, secure, obtain, borrow, purchase, or review any information or data obtained
91 through a reverse-keyword request or a reverse-location request.

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

93 **77-23e-105. Assistance prohibited.**

94 A governmental entity may not seek the assistance of an agency of the federal
95 government or an agency of another state or subdivision to obtain information or data from a
96 reverse-keyword court order, reverse-location court order, reverse-keyword request, or
97 reverse-location request, if the governmental entity would be barred from directly seeking that
98 information or data under this chapter.

99 Section 6. Section **77-23e-106** is enacted to read:

100 **77-23e-106. Inadmissibility and suppression of information and evidence.**

101 (1) As used in this section, "derived from" means evidence discovered or acquired
102 from a reverse-location keyword court order, reverse-location court order, reverse-keyword
103 request, or reverse-location request, where the governmental entity would not have originally
104 possessed the evidence but for the unlawful court order or request, regardless of any claim that
105 the evidence:

106 (a) is attenuated from the unlawful court order or request;

107 (b) inevitably would have been discovered; or

108 (c) subsequently was re-obtained through other means.

109 (2) Except as evidence of a violation of this chapter, information or data obtained,
110 accessed, or otherwise secured in violation of this chapter is not admissible in any criminal,
111 civil, administrative, or other proceeding.

112 (3) Evidence derived from information or data described in Subsection (2) is not
113 admissible in any criminal, civil, administrative, or other proceeding.