

LAW ENFORCEMENT INVESTIGATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill concerns procedures and requirements related to law enforcement investigations.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
 - ▶ establishes law enforcement reporting requirements for reverse-location warrants;
 - ▶ requires the State Commission on Criminal and Juvenile Justice to receive, compile, and publish data concerning reverse-location warrants;
 - ▶ provides that a law enforcement agency not in compliance with reverse-location warrant reporting requirements may not receive grants from the State Commission on Criminal and Juvenile Justice;
 - ▶ revises law enforcement warrant notification requirements and procedures for certain owners of devices or information;
 - ▶ places restrictions on and establishes procedures for law enforcement access to reverse-location information;
 - ▶ requires, with a sunset provision, a specified notice for certain warrant applications;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 **AMENDS:**

33 **63A-16-1002**, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
34 Coordination Clause, Laws of Utah 2022, Chapter 390

35 **63I-2-277**, as last amended by Laws of Utah 2016, Chapter 348

36 **63M-7-204**, as last amended by Laws of Utah 2022, Chapter 187

37 **63M-7-218**, as enacted by Laws of Utah 2022, Chapter 390 and last amended by
38 Coordination Clause, Laws of Utah 2022, Chapter 390

39 **77-23c-101.2**, as last amended by Laws of Utah 2019, Chapter 479 and renumbered and
40 amended by Laws of Utah 2019, Chapter 362 and last amended by Coordination
41 Clause, Laws of Utah 2019, Chapter 479

42 **77-23c-102**, as last amended by Laws of Utah 2022, Chapter 274

43 **77-23c-103**, as last amended by Laws of Utah 2021, Chapter 42

44 **77-23c-104**, as last amended by Laws of Utah 2021, Chapter 42

45 **ENACTS:**

46 **53-22-101**, Utah Code Annotated 1953

47 **77-23f-101**, Utah Code Annotated 1953

48 **77-23f-102**, Utah Code Annotated 1953

49 **77-23f-103**, Utah Code Annotated 1953

50 **77-23f-104**, Utah Code Annotated 1953

51 **77-23f-105**, Utah Code Annotated 1953

52 **77-23f-106**, Utah Code Annotated 1953

53 **77-23f-107**, Utah Code Annotated 1953

54 **77-23f-108**, Utah Code Annotated 1953

55 **77-23f-109**, Utah Code Annotated 1953

56 REPEALS:

57 [77-23c-101.1](#), as enacted by Laws of Utah 2019, Chapter 362

58

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

60 Section 1. Section **53-22-101** is enacted to read:

61 **CHAPTER 22. REPORTING REQUIREMENTS FOR REVERSE-LOCATION**
62 **WARRANTS**

63 **53-22-101. Reporting requirements for reverse-location warrants.**

64 (1) As used in this section:

65 (a) "Anonymized" means the same as that term is defined in Section [77-23f-101](#).

66 (b) "Commission" means the State Commission on Criminal and Juvenile Justice
67 created in Section [63M-7-201](#).

68 (c) "Electronic device" means the same as that term is defined in Section [77-23f-101](#).

69 (d) "Law enforcement agency" means the same as that term is defined in Section
70 [77-23c-101.2](#).

71 (e) "Reverse-location information" means the same as that term is defined in Section
72 [77-23f-101](#).

73 (f) "Reverse-location warrant" means a warrant seeking reverse-location information
74 under Section [77-23f-102](#), [77-23f-103](#), or [77-23f-104](#).

75 (2) (a) Beginning January 1, 2024, a law enforcement agency shall annually on or
76 before April 30 submit a report to the commission with the following data for the previous
77 calendar year:

78 (i) the number of reverse-location warrants requested by the law enforcement agency
79 under Section [77-23f-102](#), [77-23f-103](#), or [77-23f-104](#);

80 (ii) the number of reverse-location warrants that a court or magistrate granted after a
81 request described in Subsection (2)(a)(i);

82 (iii) the number of investigations that used information obtained under a

83 reverse-location warrant to investigate a crime that was not the subject of the reverse-location
84 warrant;

85 (iv) the number of times reverse-location information was obtained under an exception
86 listed in Section [77-23f-106](#);

87 (v) the warrant identification number for each warrant described under Subsection
88 (2)(a)(ii) or (iii); and

89 (vi) the number of electronic devices for which anonymized electronic device data was
90 obtained under each reverse-location warrant described under Subsection (2)(a)(ii).

91 (b) A law enforcement agency shall compile the report described in Subsection (2)(a)
92 for each year in the standardized format developed by the commission under Subsection (4).

93 (3) If a reverse-location warrant is requested by a multijurisdictional team of law
94 enforcement officers, the reporting requirement in this section is the responsibility of the
95 commanding agency or governing authority of the multijurisdictional team.

96 (4) The commission shall:

97 (a) develop a standardized format for reporting the data described in Subsection (2);

98 (b) compile the data submitted under Subsection (2); and

99 (c) annually on or before August 1, publish on the commission's website a report of the
100 data described in Subsection (2).

101 Section 2. Section **63A-16-1002** is amended to read:

102 **63A-16-1002. Criminal justice database.**

103 (1) The commission shall oversee the creation and management of a [~~Criminal Justice~~
104 ~~Database~~] criminal justice database for information and data required to be reported to the
105 commission, organized by county, and accessible to all criminal justice agencies in the state.

106 (2) The division shall assist with the development and management of the database.

107 (3) The division, in collaboration with the commission, shall create:

108 (a) master standards and formats for information submitted to the database;

109 (b) a portal, bridge, website, or other method for reporting entities to provide the

110 information;

111 (c) a master data management index or system to assist in the retrieval of information
112 in the database;

113 (d) a protocol for accessing information in the database that complies with state
114 privacy regulations; and

115 (e) a protocol for real-time audit capability of all data accessed through the portal by
116 participating data source, data use entities, and regulators.

117 (4) Each criminal justice agency charged with reporting information to the commission
118 shall provide the data or information to the database in a form prescribed by the commission.

119 (5) The database shall be the repository for the statutorily required data described in:

120 (a) Section 13-53-111, recidivism reporting requirements;

121 (b) Section 17-22-32, county jail reporting requirements;

122 (c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

123 (d) Section 24-4-118, forfeiture reporting requirements;

124 (e) Section 41-6a-511, courts to collect and maintain data;

125 (f) Section 53-22-101, reporting requirements for reverse-location warrants;

126 (g) Section 63M-7-214, law enforcement agency grant reporting;

127 [~~g~~] (h) Section 63M-7-216, prosecutorial data collection;

128 [~~h~~] (i) Section 64-13-21, supervision of sentenced offenders placed in community;

129 [~~i~~] (j) Section 64-13-25, standards for programs;

130 [~~j~~] (k) Section 64-13-45, department reporting requirements;

131 [~~k~~] (l) Section 64-13e-104, housing of state probationary inmates or state parole
132 inmates;

133 [~~l~~] (m) Section 77-7-8.5, use of tactical groups;

134 [~~m~~] (n) Section 77-20-103, release data requirements;

135 [~~n~~] (o) Section 77-22-2.5, court orders for criminal investigations;

136 [~~o~~] (p) Section 78A-2-109.5, court demographics reporting; and

137 ~~(p)~~ (q) any other statutes which require the collection of specific data and the
138 reporting of that data to the commission.

139 (6) The commission shall report:

140 (a) progress on the database, including creation, configuration, and data entered, to the
141 Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

142 (b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal
143 Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing
144 Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing
145 Committee not later than January 16, 2023.

146 Section 3. Section **63I-2-277** is amended to read:

147 **63I-2-277. Repeal dates: Title 77.**

148 Subsections [77-23f-102\(2\)\(a\)\(ii\)](#) and [77-23f-103\(2\)\(a\)\(ii\)](#), which require a notice for
149 certain reverse-location search warrant applications, are repealed January 1, 2033.

150 Section 4. Section **63M-7-204** is amended to read:

151 **63M-7-204. Duties of commission.**

152 (1) The State Commission on Criminal and Juvenile Justice administration shall:

153 (a) promote the commission's purposes as enumerated in Section [63M-7-201](#);

154 (b) promote the communication and coordination of all criminal and juvenile justice
155 agencies;

156 (c) study, evaluate, and report on the status of crime in the state and on the
157 effectiveness of criminal justice policies, procedures, and programs that are directed toward the
158 reduction of crime in the state;

159 (d) study, evaluate, and report on programs initiated by state and local agencies to
160 address reducing recidivism, including changes in penalties and sentencing guidelines intended
161 to reduce recidivism, costs savings associated with the reduction in the number of inmates, and
162 evaluation of expenses and resources needed to meet goals regarding the use of treatment as an
163 alternative to incarceration, as resources allow;

- 164 (e) study, evaluate, and report on policies, procedures, and programs of other
165 jurisdictions which have effectively reduced crime;
- 166 (f) identify and promote the implementation of specific policies and programs the
167 commission determines will significantly reduce crime in Utah;
- 168 (g) provide analysis and recommendations on all criminal and juvenile justice
169 legislation, state budget, and facility requests, including program and fiscal impact on all
170 components of the criminal and juvenile justice system;
- 171 (h) provide analysis, accountability, recommendations, and supervision for state and
172 federal criminal justice grant money;
- 173 (i) provide public information on the criminal and juvenile justice system and give
174 technical assistance to agencies or local units of government on methods to promote public
175 awareness;
- 176 (j) promote research and program evaluation as an integral part of the criminal and
177 juvenile justice system;
- 178 (k) provide a comprehensive criminal justice plan annually;
- 179 (l) review agency forecasts regarding future demands on the criminal and juvenile
180 justice systems, including specific projections for secure bed space;
- 181 (m) promote the development of criminal and juvenile justice information systems that
182 are consistent with common standards for data storage and are capable of appropriately sharing
183 information with other criminal justice information systems by:
 - 184 (i) developing and maintaining common data standards for use by all state criminal
185 justice agencies;
 - 186 (ii) annually performing audits of criminal history record information maintained by
187 state criminal justice agencies to assess their accuracy, completeness, and adherence to
188 standards;
 - 189 (iii) defining and developing state and local programs and projects associated with the
190 improvement of information management for law enforcement and the administration of

191 justice; and

192 (iv) establishing general policies concerning criminal and juvenile justice information
193 systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this
194 Subsection (1)(m);

195 (n) allocate and administer grants, from money made available, for approved education
196 programs to help prevent the sexual exploitation of children;

197 (o) allocate and administer grants for law enforcement operations and programs related
198 to reducing illegal drug activity and related criminal activity;

199 (p) request, receive, and evaluate data and recommendations collected and reported by
200 agencies and contractors related to policies recommended by the commission regarding
201 recidivism reduction, including the data described in Section 13-53-111 and Subsection
202 62A-15-103(2)(l);

203 (q) establish and administer a performance incentive grant program that allocates funds
204 appropriated by the Legislature to programs and practices implemented by counties that reduce
205 recidivism and reduce the number of offenders per capita who are incarcerated;

206 (r) oversee or designate an entity to oversee the implementation of juvenile justice
207 reforms;

208 (s) make rules and administer the juvenile holding room standards and juvenile jail
209 standards to align with the Juvenile Justice and Delinquency Prevention Act requirements
210 pursuant to 42 U.S.C. Sec. 5633;

211 (t) allocate and administer grants, from money made available, for pilot qualifying
212 education programs;

213 (u) oversee the trauma-informed justice program described in Section 63M-7-209;

214 (v) request, receive, and evaluate the aggregate data collected from prosecutorial
215 agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216
216 and 78A-2-109.5;

217 (w) report annually to the Law Enforcement and Criminal Justice Interim Committee

218 on the progress made on each of the following goals of the Justice Reinvestment Initiative:

- 219 (i) ensuring oversight and accountability;
- 220 (ii) supporting local corrections systems;
- 221 (iii) improving and expanding reentry and treatment services; and
- 222 (iv) strengthening probation and parole supervision;
- 223 (x) compile a report of findings based on the data and recommendations provided

224 under Section 13-53-111 and Subsection 62A-15-103(2)(n) that:

225 (i) separates the data provided under Section 13-53-111 by each residential, vocational
226 and life skills program; and

227 (ii) separates the data provided under Subsection 62A-15-103(2)(n) by each mental
228 health or substance use treatment program; ~~and~~

229 (y) publish the report described in Subsection (1)(x) on the commission's website and
230 annually provide the report to the Judiciary Interim Committee, the Health and Human Services
231 Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the
232 related appropriations subcommittees[-]; and

233 (z) receive, compile, and publish on the commission's website the data provided under
234 Section 53-22-101.

235 (2) If the commission designates an entity under Subsection (1)(r), the commission
236 shall ensure that the membership of the entity includes representation from the three branches
237 of government and, as determined by the commission, representation from relevant stakeholder
238 groups across all parts of the juvenile justice system, including county representation.

239 Section 5. Section 63M-7-218 is amended to read:

240 **63M-7-218. State grant requirements.**

241 Beginning July 1, 2023, the commission may not award any grant of state funds to any
242 entity subject to, and not in compliance with, the reporting requirements in Subsections
243 63A-16-1002(5)(a) through ~~(t)~~ (p).

244 Section 6. Section 77-23c-101.2 is amended to read:

245 **CHAPTER 23c. ELECTRONIC INFORMATION PRIVACY ACT**

246 **77-23c-101.2. Definitions.**

247 As used in this chapter:

248 (1) "Electronic communication service" means a service that provides to users of the
249 service the ability to send or receive wire or electronic communications.

250 (2) "Electronic device" means a device that enables access to or use of an electronic
251 communication service, remote computing service, or location information service.

252 (3) (a) "Electronic information [~~or data~~]" means information or data including a sign,
253 signal, writing, image, sound, or intelligence of any nature transmitted or stored in whole or in
254 part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

255 (b) "Electronic information [~~or data~~]" includes the location information, stored data, or
256 transmitted data of an electronic device.

257 (c) "Electronic information [~~or data~~]" does not include:

258 (i) a wire or oral communication;

259 (ii) a communication made through a tone-only paging device; or

260 (iii) electronic funds transfer information stored by a financial institution in a
261 communications system used for the electronic storage and transfer of money.

262 (4) "Law enforcement agency" means:

263 (a) an entity of the state or a political subdivision of the state that exists to primarily
264 prevent, detect, or prosecute crime and enforce criminal statutes or ordinances; or

265 (b) an individual or entity acting for or on behalf of an entity described in Subsection
266 (4)(a).

267 (5) (a) "Location information" means [~~information, obtained by means of a tracking~~
268 ~~device, concerning the~~] information concerning the geographical location of an electronic
269 device that, in whole or in part, is generated or derived from or obtained by the operation of an
270 electronic device or the operation of a software application on an electronic device.

271 (b) "Location information" includes past, current, and future location information.

272 (6) "Location information service" means the provision of a global positioning service
273 or other mapping, location, or directional information service.

274 (7) "Oral communication" means the same as that term is defined in Section 77-23a-3.

275 (8) "Remote computing service" means the provision to the public of computer storage
276 or processing services by means of an electronic communications system.

277 (9) "Transmitted data" means electronic information [~~or data~~] that is transmitted
278 wirelessly:

279 (a) from an electronic device to another electronic device without the use of an
280 intermediate connection or relay; or

281 (b) from an electronic device to a nearby antenna or from a nearby antenna to an
282 electronic device.

283 (10) "Wire communication" means the same as that term is defined in Section
284 77-23a-3.

285 Section 7. Section 77-23c-102 is amended to read:

286 **77-23c-102. Electronic information privacy -- Warrant required for disclosure --**
287 **Exceptions.**

288 (1) (a) Except as provided in Subsection (2) or (4), for a criminal investigation or
289 prosecution, a law enforcement agency may not obtain, without a search warrant issued by a
290 court upon probable cause:

291 (i) the location information, stored data, or transmitted data of an electronic device; or
292 (ii) electronic information [~~or data~~] transmitted by the owner of the electronic
293 information [~~or data~~]:

294 (A) to a provider of a remote computing service; or

295 (B) through a provider of an electronic communication service.

296 (b) Except as provided in Subsection (1)(c), a law enforcement agency may not use,
297 copy, or disclose, for any purpose, the location information, stored data, or transmitted data of
298 an electronic device, or electronic information [~~or data~~] provided by a provider of a remote

299 computing service or an electronic communication service, that:

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

301 (ii) is collected as part of an effort to obtain the location information, stored data, or
302 transmitted data of an electronic device, or electronic information [~~or data~~] provided by a
303 provider of a remote computing service or an electronic communication service that is the
304 subject of the warrant in Subsection (1)(a).

305 (c) A law enforcement agency may use, copy, or disclose the transmitted data of an
306 electronic device used to communicate with the electronic device that is the subject of the
307 warrant if the law enforcement agency reasonably believes that the transmitted data is
308 necessary to achieve the objective of the warrant.

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

312 (2) (a) A law enforcement agency may obtain location information without a warrant
313 for an electronic device:

314 (i) in accordance with Section [53-10-104.5](#);

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

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

318 (iv) in accordance with a judicially recognized exception to warrant requirements;

319 (v) if the owner has voluntarily and publicly disclosed the location information; or

320 (vi) from a provider of a remote computing service or an electronic communications
321 service if the provider voluntarily discloses the location information:

322 (A) under a belief that an emergency exists involving an imminent risk to an individual
323 of death, serious physical injury, sexual abuse, live-streamed sexual exploitation, kidnapping,
324 or human trafficking; or

325 (B) that is inadvertently discovered by the provider and appears to pertain to the

326 commission of a felony, or of a misdemeanor involving physical violence, sexual abuse, or
327 dishonesty.

328 (b) A law enforcement agency may obtain stored data or transmitted data from an
329 electronic device or electronic information [~~or data~~] transmitted by the owner of the electronic
330 information [~~or data~~] to a provider of a remote computing service or through a provider of an
331 electronic communication service, without a warrant:

332 (i) with the informed consent of the owner of the electronic device or electronic
333 information [~~or data~~];

334 (ii) in accordance with a judicially recognized exception to warrant requirements; or

335 (iii) subject to Subsection (2)(a)(vi)(B), from a provider of a remote computing service
336 or an electronic communication service if the provider voluntarily discloses the stored or
337 transmitted data as otherwise permitted under 18 U.S.C. Sec. 2702.

338 (c) A prosecutor may obtain a judicial order as described in Section 77-22-2.5 for the
339 purposes described in Section 77-22-2.5.

340 (3) A provider of an electronic communication service or a remote computing service,
341 the provider's officers, employees, or agents, or other specified persons may not be held liable
342 for providing information, facilities, or assistance in good faith reliance on the terms of the
343 warrant issued under this section or without a warrant in accordance with Subsection (2).

344 (4) Nothing in this chapter:

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

347 (b) affects the rights of an employer under Subsection 34-48-202(1)(e) or an
348 administrative rule adopted under Section 63A-16-205; or

349 (c) limits the ability of a law enforcement agency to receive or use information, without
350 a warrant or subpoena, from the National Center for Missing and Exploited Children under 18
351 U.S.C. Sec. 2258A.

352 Section 8. Section 77-23c-103 is amended to read:

353 **77-23c-103. Notification required -- Exceptions -- Delayed notification.**

354 (1) (a) Except as provided in [~~Subsection (2), if~~ Subsection (1)(b) or (2)], a law
355 enforcement agency that executes a warrant [~~in accordance with~~] under Subsection
356 77-23c-102(1) or 77-23c-104(3) [~~the law enforcement agency shall notify~~] shall serve the
357 owner of the electronic device or electronic information [~~or data~~] specified in the warrant with
358 a notice described in Subsection (3):

359 (i) within 90 days after the day on which the electronic device or the electronic [~~data~~
360 ~~or~~] information is obtained by the law enforcement agency but in no case [~~shall the law~~
361 ~~enforcement agency notify the owner~~] more than three days after the day on which the
362 investigation is concluded[:]; or

363 [~~(b) The notification described in Subsection (1)(a) shall state:~~]

364 [~~(i) that a warrant was applied for and granted;~~]

365 [~~(ii) the kind of warrant issued;~~]

366 [~~(iii) the period of time during which the collection of the electronic information or~~
367 ~~data was authorized;~~]

368 [~~(iv) the offense specified in the application for the warrant;~~]

369 [~~(v) the identity of the law enforcement agency that filed the application; and~~]

370 [~~(vi) the identity of the judge who issued the warrant.~~]

371 [~~(c) For the notification requirement described in Subsection (1)(a), the time period~~
372 ~~under Subsection (1)(a) begins on the day after the day on which the owner of the electronic~~
373 ~~device or electronic information or data specified in the warrant is known, or could be~~
374 ~~reasonably identified, by the law enforcement agency.~~]

375 (ii) if the owner of the electronic device or electronic information specified in the
376 warrant is unknown to the law enforcement agency, within 90 days after the day on which the
377 law enforcement agency identifies, or reasonably could identify, the owner.

378 (b) A law enforcement agency is not required to serve a notice described in Subsection
379 (1)(a) to the owner of the electronic device or electronic information if the owner is located

380 outside of the United States.

381 (2) (a) (i) A law enforcement agency seeking a warrant in accordance with Subsection
382 77-23c-102(1)(a) or 77-23c-104(3) may submit a request, and the court may grant permission,
383 to delay [~~the notification required by~~] service of the notice required under Subsection (1) for a
384 period not to exceed 30 days, if the court determines that there is reasonable cause to believe
385 that the notification may:

386 [(a)] (A) endanger the life or physical safety of an individual;

387 [(b)] (B) cause a person to flee from prosecution;

388 [(c)] (C) lead to the destruction of or tampering with evidence;

389 [(d)] (D) intimidate a potential witness; or

390 [(e)] (E) otherwise seriously jeopardize an investigation or unduly delay a trial.

391 [(3)] (ii) When a delay of notification is granted under Subsection (2)(a)(i) and upon
392 application by the law enforcement agency, the court may grant additional extensions of up to
393 30 days each.

394 [(4)(a)] (b) (i) A law enforcement agency that seeks a warrant for an electronic device
395 or electronic information [~~or data~~] in accordance with Subsection 77-23c-102(1)(a) or
396 77-23c-104(3) may submit a request to the court, and the court may grant permission, to delay
397 [~~a notification under Subsection (2)~~] service of the notice required under Subsection (1), if the
398 purpose of delaying the notification is to apprehend an individual:

399 [(i)] (A) who is a fugitive from justice under Section 77-30-13; and

400 [(ii)] (B) for whom an arrest warrant has been issued for a violent felony offense as
401 defined in Section 76-3-203.5.

402 [(b)] (ii) (A) The court may grant the request under Subsection [(4)(a)] (2)(b)(i) to
403 delay notification until the individual who is a fugitive from justice under Section 77-30-13 is
404 apprehended by the law enforcement agency.

405 [(c)] (B) A law enforcement agency shall [~~issue a notification described in Subsection~~
406 (5)] serve the notice required under Subsection (1) to the owner of the electronic device or

407 electronic information ~~[or data]~~ within 14 days after the day on which the law enforcement
408 agency apprehends the individual described in Subsection ~~[(4)(a)]~~ (2)(b)(i).

409 ~~[(5) Upon expiration of the period of delayed notification granted under Subsection (2)~~
410 ~~or (3), or upon the apprehension of an individual described in Subsection (4)(a), the law~~
411 ~~enforcement agency shall serve upon or deliver by first-class mail, or by other means if~~
412 ~~delivery is impracticable, to the owner of the electronic device or electronic information or data~~
413 ~~a copy of the warrant together with notice that:]~~

414 ~~[(a) states with reasonable specificity the nature of the law enforcement inquiry; and]~~

415 ~~[(b) contains:]~~

416 ~~[(i) the information described in Subsection (1)(b);]~~

417 ~~[(ii) a statement that notification of the search was delayed;]~~

418 ~~[(iii) the name of the court that authorized the delay of notification; and]~~

419 ~~[(iv) a reference to the provision of this chapter that allowed the delay of notification.]~~

420 ~~[(6) A law enforcement agency is not required to notify the owner of the electronic~~
421 ~~device or electronic information or data if the owner is located outside of the United States.]~~

422 (3) A notice required under Subsection (1) shall include:

423 (a) a copy of the warrant; and

424 (b) a written statement identifying:

425 (i) the offense specified in the warrant application;

426 (ii) the identity of the law enforcement agency that filed the application;

427 (iii) the date on which the electronic information was obtained; and

428 (iv) the number and length of any authorized delays in serving the notice required

429 under Subsection (1), including, if applicable, the name of the court that authorized the delay

430 and a reference to the provision of this chapter that permitted the delay.

431 (4) A law enforcement agency shall serve the notice required under Subsection (1) to

432 the owner of the electronic device or electronic information by:

433 (a) personal service on the owner;

- 434 (b) first-class mail to the owner's last-known address; or
- 435 (c) other reasonable means if the owner's last-known address is unknown.

436 Section 9. Section **77-23c-104** is amended to read:

437 **77-23c-104. Third-party electronic information.**

438 (1) As used in this section, "subscriber record" means a record or information of a
439 provider of an electronic communication service or remote computing service that reveals the
440 subscriber's or customer's:

- 441 (a) name;
- 442 (b) address;
- 443 (c) local and long distance telephone connection record, or record of session time and
444 duration;
- 445 (d) length of service, including the start date;
- 446 (e) type of service used;
- 447 (f) telephone number, instrument number, or other subscriber or customer number or
448 identification, including a temporarily assigned network address; and
- 449 (g) means and source of payment for the service, including a credit card or bank
450 account number.

451 (2) Except as provided in Chapter 22, Subpoena Powers for Aid of Criminal
452 Investigation and Grants of Immunity or Section 77-23f-105, a law enforcement agency may
453 not obtain, use, copy, or disclose a subscriber record.

454 (3) A law enforcement agency may not obtain, use, copy, or disclose, for a criminal
455 investigation or prosecution, any record or information, other than a subscriber record, of a
456 provider of an electronic communication service or remote computing service related to a
457 subscriber or customer without a warrant.

458 (4) Notwithstanding Subsections (2) and (3), a law enforcement agency may obtain,
459 use, copy, or disclose a subscriber record, or other record or information related to a subscriber
460 or customer, without an investigative subpoena or a warrant:

- 461 (a) with the informed, affirmed consent of the subscriber or customer;
- 462 (b) in accordance with a judicially recognized exception to warrant requirements;
- 463 (c) if the subscriber or customer voluntarily discloses the record in a manner that is
- 464 publicly accessible; or
- 465 (d) if the provider of an electronic communication service or remote computing service
- 466 voluntarily discloses the record:
- 467 (i) under a belief that an emergency exists involving the imminent risk to an individual
- 468 of:
- 469 (A) death;
- 470 (B) serious physical injury;
- 471 (C) sexual abuse;
- 472 (D) live-streamed sexual exploitation;
- 473 (E) kidnapping; or
- 474 (F) human trafficking;
- 475 (ii) that is inadvertently discovered by the provider, if the record appears to pertain to
- 476 the commission of:
- 477 (A) a felony; or
- 478 (B) a misdemeanor involving physical violence, sexual abuse, or dishonesty; or
- 479 (iii) subject to Subsection [77-23c-104\(4\)\(d\)\(ii\)](#), as otherwise permitted under 18 U.S.C.
- 480 Sec. 2702.
- 481 (5) A provider of an electronic communication service or remote computing service, or
- 482 the provider's officers, employees, agents, or other specified persons may not be held liable for
- 483 providing information, facilities, or assistance in good faith reliance on the terms of a warrant
- 484 issued under this section, or without a warrant in accordance with Subsection (3).

485 Section 10. Section **77-23f-101** is enacted to read:

486 **CHAPTER 23f. ACCESS TO REVERSE-LOCATION INFORMATION**

487 **77-23f-101. Definitions.**

488 As used in this chapter:

489 (1) "Anonymized" means that the identifying information connected to an electronic
490 device has been rendered anonymous in a manner such that the subject, including an
491 individual, household, device, or Internet protocol address, is not identifiable to a law
492 enforcement agency.

493 (2) "Cell site" means transmission or reception equipment, including a base-station
494 antenna, that connects an electronic device to a network.

495 (3) "Cell site record" means the cell site location information of an electronic device
496 that corresponds to a specific cell site and time frame.

497 (4) "Electronic device" means a device that enables access to or use of a location
498 information service or can otherwise create or provide location information.

499 (5) "Geofence" means a specified geographic area defined by a virtual perimeter or
500 geographic coordinates.

501 (6) "Identifying information" means information tied to an electronic device that
502 identifies the user's or owner's:

503 (a) name;

504 (b) address;

505 (c) phone number;

506 (d) email; or

507 (e) other identifying information that would identify the owner or user of the electronic
508 device.

509 (7) "Law enforcement agency" means the same as that term is defined in Section
510 [77-23c-101.2](#).

511 (8) "Location information" means the same as that term is defined in Section
512 [77-23c-101.2](#).

513 (9) "Reverse-location information" means historical location information for:

514 (a) a defined time period;

515 (b) a defined or undefined area; and
516 (c) a defined or undefined number of electronic devices, for which the identities of the
517 owners or users of the electronic devices are unknown to law enforcement.

518 Section 11. Section **77-23f-102** is enacted to read:

519 **77-23f-102. Obtaining reverse-location information within a geofence -- Warrant**
520 **required for disclosure -- Procedure.**

521 (1) Except as provided in Section [77-23f-106](#), for a criminal investigation or
522 prosecution, a law enforcement agency may not obtain reverse-location information for
523 electronic devices within a geofence unless:

524 (a) the law enforcement agency obtains a search warrant as provided under this section;
525 and

526 (b) (i) the investigation or prosecution involves:

527 (A) a felony;

528 (B) a class A misdemeanor that involves harm or a risk of harm to a person, a violation
529 of Title 23, Wildlife Resources Code of Utah, or is part of a pattern of criminal activity; or

530 (C) a class B misdemeanor that involves harm or a risk of harm to a person, the
531 unlawful taking of protected wildlife, or is part of a pattern of criminal activity; or

532 (ii) the law enforcement agency can demonstrate an imminent, ongoing threat to public
533 safety.

534 (2) To obtain reverse-location information inside of a geofence, a law enforcement
535 agency shall:

536 (a) include with the sworn warrant application:

537 (i) a map or other visual depiction that represents the geofence for which the warrant is
538 seeking information; and

539 (ii) the following language at the beginning of the application in a legible font no
540 smaller than other text appearing in the application:

541 "NOTICE: This warrant application seeks judicial authorization for the disclosure of

542 reverse-location information of electronic devices near a crime at or near the time of the crime.
543 If authorized, the warrant allows law enforcement to obtain historical location information of
544 all devices within the area described in the warrant during the specified time from entities in
545 possession of the relevant data. The electronic devices captured in the warrant may be owned
546 or used by both alleged criminal perpetrators and individuals not involved in the commission of
547 a crime. For this reason, any warrant issued must require the anonymization of all devices
548 associated with the reverse-location information."; and

549 (b) establish probable cause to believe that evidence of a crime will be found within the
550 geofence and within a specified period of time.

551 (3) If a court grants a warrant under Subsection (2), the court shall require that all
552 electronic device data provided pursuant to the warrant be anonymized before the
553 reverse-location information is released to the law enforcement agency.

554 Section 12. Section **77-23f-103** is enacted to read:

555 **77-23f-103. Obtaining reverse-location information based on cell site records --**
556 **Warrant required for disclosure -- Procedure.**

557 (1) Except as provided in Section [77-23f-106](#), for a criminal investigation or
558 prosecution, a law enforcement agency may not obtain reverse-location information based on
559 cell site records unless:

560 (a) the law enforcement agency obtains a search warrant as provided under this section;

561 and

562 (b) (i) the investigation or prosecution involves:

563 (A) a felony;

564 (B) a class A misdemeanor that involves harm or risk of harm to a person, a violation
565 of Title 23, Wildlife Resources Code of Utah, or is part of a pattern of criminal activity; or

566 (C) a class B misdemeanor that involves harm or risk of harm to a person, the unlawful
567 taking of protected wildlife, or is part of a pattern of criminal activity; or

568 (ii) the law enforcement agency can demonstrate an imminent, ongoing threat to public

569 safety.

570 (2) To obtain cell-site based reverse-location information, a law enforcement agency

571 shall:

572 (a) include with the sworn warrant application:

573 (i) a visual depiction or written description that identifies:

574 (A) the crime scene location and any other areas of interest related to the crime;

575 (B) the location of cell sites from which the reverse-location information is sought; and

576 (C) the distance between the locations described in Subsections (2)(a)(i)(A) and (B);

577 and

578 (ii) the following language at the beginning of the application in a legible font no

579 smaller than other text appearing in the application:

580 "NOTICE: This warrant application seeks judicial authorization for the disclosure of
581 reverse-location information of electronic devices near a crime at or near the time of the crime.

582 If authorized, the warrant allows law enforcement to obtain historical location information of

583 all devices within the area described in the warrant during the specified time from entities in

584 possession of the relevant data. The electronic devices captured in the warrant may be owned

585 or used by both alleged criminal perpetrators and individuals not involved in the commission of

586 a crime. For this reason, any warrant issued must require the anonymization of all devices

587 associated with the reverse-location information."; and

588 (b) establish probable cause to believe that evidence of a crime will be found within the

589 cell site records described in Subsection (2)(a)(i) and within a specified period of time.

590 (3) If a court grants a warrant under Subsection (2), the court shall require that all

591 electronic device data provided pursuant to the warrant be anonymized before the

592 reverse-location information is released to the law enforcement agency.

593 Section 13. Section **77-23f-104** is enacted to read:

594 **77-23f-104. Obtaining additional reverse-location information -- Warrant**

595 **required for disclosure -- Procedure.**

596 (1) If, after executing a warrant described in Section 77-23f-102 or 77-23f-103, a law
597 enforcement agency seeks to obtain reverse-location information beyond the parameters of the
598 warrant obtained under Section 77-23f-102 or 77-23f-103, the law enforcement agency shall:

599 (a) include in the sworn warrant application the specific electronic devices identified in
600 the anonymized data for which the law enforcement agency seeks additional reverse-location
601 information;

602 (b) establish probable cause to believe that evidence of a crime will be found within a
603 specified period of time; and

604 (c) affirm that the crime described in Subsection (1)(b) is:

605 (i) the same crime or directly related to the crime that was the subject of the warrant
606 obtained under Section 77-23f-102 or 77-23f-103; or

607 (ii) a crime subject to the judicially recognized plain view exception to the warrant
608 requirement.

609 (2) If a court grants a warrant under Subsection (1), the court shall require that all
610 electronic device data provided pursuant to the warrant be anonymized before the
611 reverse-location information is released to the law enforcement agency.

612 Section 14. Section **77-23f-105** is enacted to read:

613 **77-23f-105. Obtaining identifying information connected to reverse-location**
614 **information -- Warrant required for disclosure -- Procedure.**

615 To obtain identifying information for an electronic device identified pursuant to a
616 warrant obtained under Section 77-23f-102, 77-23f-103, or 77-23f-104, a law enforcement
617 agency shall establish in the sworn warrant application probable cause to believe that the
618 electronic device was used or otherwise implicated in a crime.

619 Section 15. Section **77-23f-106** is enacted to read:

620 **77-23f-106. Exceptions to reverse-location warrant requirements.**

621 (1) Notwithstanding any other provision in this chapter, a law enforcement agency may
622 obtain reverse-location information without a warrant:

- 623 (a) in accordance with Section 53-10-104.5; or
- 624 (b) in accordance with a judicially recognized exception to warrant requirements.
- 625 (2) Nothing in this chapter:
- 626 (a) limits or affects the disclosure of public records under Title 63G, Chapter 2,
- 627 Government Records Access and Management Act;
- 628 (b) affects the rights of an employer under Subsection 34-48-202(1)(e) or an
- 629 administrative rule adopted under Section 63A-16-205; or
- 630 (c) limits the ability of a law enforcement agency to receive or use information, without
- 631 a warrant or subpoena, from the National Center for Missing and Exploited Children under 18
- 632 U.S.C. Sec. 2258A.

633 Section 16. Section 77-23f-107 is enacted to read:

634 **77-23f-107. Use, disclosure, and destruction of reverse-location information --**
635 **Anonymization.**

636 (1) (a) A law enforcement agency may not use, copy, or disclose, for any purpose,
637 reverse-location information obtained under a warrant under Section 77-23f-102, 77-23f-103,
638 or 77-23f-104 that:

- 639 (i) is not related to the crime that is the subject of the warrant; and
- 640 (ii) is collected as part of an effort to obtain the reverse-location information of an
- 641 electronic device that is related to the crime that is the subject of the warrant obtained under
- 642 Section 77-23f-102, 77-23f-103, or 77-23f-104.

643 (b) The law enforcement agency shall destroy in an unrecoverable manner the
644 reverse-location information described in Subsection (1)(a) as soon as reasonably possible after
645 the criminal case is declined for prosecution or, if criminal charges are filed, the final
646 disposition of the criminal case.

647 (2) (a) Reverse-location information obtained under Section 77-23f-102, 77-23f-103,
648 or 77-23f-104 may not be:

- 649 (i) compared with, merged with, linked to, or in any way electronically or otherwise

650 connected to a source of electronic data, including a database or file, containing one or more
651 points of data that includes the location information provided by an electronic device; or

652 (ii) used in any other criminal investigation or prosecution.

653 (b) Subsection (2)(a)(i) does not apply if all the electronic data, including the
654 reverse-location information, is obtained for the purpose of investigating the same criminal
655 incident.

656 (3) A person or entity that provides reverse-location information under this chapter
657 shall ensure that the reverse-location information is anonymized before the reverse-location
658 information is provided to a law enforcement agency.

659 Section 17. Section **77-23f-108** is enacted to read:

660 **77-23f-108. Notifications required -- Exceptions --Delayed notification.**

661 (1) (a) Except as provided in Subsection (1)(b) or (2), a law enforcement agency that
662 executes a warrant under Section [77-23f-105](#) shall serve a notice described in Subsection (3) on
663 the owner of the electronic device for which identifying information was obtained:

664 (i) within 90 days after the day on which the identifying information is obtained by the
665 law enforcement agency, but in no case more than three days after the day on which the
666 investigation is concluded; or

667 (ii) if the owner of the electronic device for which the identifying information specified
668 in the warrant is unknown to the law enforcement agency, within 90 days after the day on
669 which the law enforcement agency identifies, or reasonably could identify, the owner.

670 (b) A law enforcement agency is not required to serve a notice described in Subsection
671 (1)(a) to the owner of the electronic device for which identifying information was obtained if
672 the owner is located outside of the United States.

673 (2) (a) (i) A law enforcement agency seeking a warrant in accordance with Section
674 [77-23f-105](#) may submit a request, and the court may grant permission, to delay service of the
675 notice required under Subsection (1) for a period not to exceed 30 days, if the court determines
676 that there is reasonable cause to believe that the notification may:

- 677 (A) endanger the life or physical safety of an individual;
678 (B) cause a person to flee from prosecution;
679 (C) lead to the destruction of or tampering with evidence;
680 (D) intimidate a potential witness; or
681 (E) otherwise seriously jeopardize an investigation or unduly delay a trial.
682 (ii) When a delay of notification is granted under Subsection (2)(a)(i) and upon
683 application by the law enforcement agency, the court may grant additional extensions of up to
684 30 days each.
685 (b) (i) A law enforcement agency that seeks a warrant in accordance with Section
686 77-23f-105 may submit a request to the court, and the court may grant permission, to delay
687 service of the notice required under Subsection (1), if the purpose of delaying the notification is
688 to apprehend an individual:
689 (A) who is a fugitive from justice under Section 77-30-13; and
690 (B) for whom an arrest warrant has been issued for a violent felony offense as defined
691 in Section 76-3-203.5.
692 (ii) (A) The court may grant the request under Subsection (2)(b)(i) to delay notification
693 until the individual who is a fugitive from justice under Section 77-30-13 is apprehended by
694 the law enforcement agency.
695 (B) A law enforcement agency shall serve the notice required under Subsection (1) to
696 the owner of the electronic device within 14 days after the day on which the law enforcement
697 agency apprehends the individual described in Subsection (2)(b)(i).
698 (3) A notice required under Subsection (1) shall include:
699 (a) a copy of the warrant; and
700 (b) a written statement identifying:
701 (i) the offense specified in the warrant application;
702 (ii) the identity of the law enforcement agency that filed the application;
703 (iii) the date on which the location information or identifying information was

704 obtained; and

705 (iv) the number and length of any authorized delays in serving the notice required
706 under Subsection (1), including, if applicable, the name of the court that authorized the delay
707 and a reference to the provision of this chapter that permitted the delay.

708 (4) A law enforcement agency shall serve the notice required under Subsection (1) to
709 the owner of the electronic device by:

710 (a) personal service on the owner;

711 (b) first-class mail to the owner's last-known address; or

712 (c) other reasonable means if the owner's last-known address is unknown.

713 Section 18. Section **77-23f-109** is enacted to read:

714 **77-23f-109. Exclusion of records.**

715 Reverse-location information or identifying information obtained in violation of the
716 provisions of this chapter shall be subject to the rules governing exclusion as if the records
717 were obtained in violation of the Fourth Amendment to the United States Constitution and
718 Utah Constitution, Article I, Section 14.

719 Section 19. **Repealer.**

720 This bill repeals:

721 Section **77-23c-101.1, Title.**