

HOUSE BILL 2291

By Weaver

AN ACT to amend Tennessee Code Annotated, Title 40,  
Chapter 6, Part 1, to require a search warrant prior  
to obtaining certain information.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 6, Part 1, is amended by  
adding the following as a new section:

40-6-109

(a) . As used in this section:

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

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

(3) "Government entity" means a state or local agency, including a  
law enforcement entity or any other investigative entity, agency,  
department, division, bureau, board, or commission, or an individual  
acting or purporting to act for or on behalf of a state or local agency;

(4) "Location information" means information concerning the  
location of an electronic device that, in whole or in part, is generated or  
derived from or obtained by the operation of an electronic device.

(5) "Location information service" means the provision of a global positioning service or other mapping, locational, or directional information service.

(6) "Remote computing service" means the provision of computer storage or processing services by means of an electronic communications system.

(b) Except as provided in subsection (c), a government entity may not obtain the location information of an electronic device without a search warrant issued by a court of competent jurisdiction.

(c) A government entity may obtain location information from an electronic device under any of the following circumstances:

(1) The device is reported stolen by the owner;

(2) In order to respond to the user's call for emergency services;

(3) With the informed, affirmative consent of the owner or user of the electronic device; or

(4) There exists a possible life-threatening situation.

(d) Any evidence obtained in violation of this section is not admissible in a civil, criminal, or administrative proceeding and may not be used in an affidavit of probable cause in an effort to obtain a search warrant.

(e) A violation of this section is a civil penalty against the government entity of one hundred dollars (\$100.00) per occurrence, collectible by an action of the attorney general and reporter. If the attorney general and reporter declines to pursue collection of the penalty, the person aggrieved by the violation may bring an action to do so. If the action is commenced by the person aggrieved and such person prevails, the governmental entity shall be responsible for the person's reasonable attorney fees, court costs, and other expenses necessary to commence the action and prove the violation

SECTION 2. This act shall take effect July 1, 2014, the public welfare requiring it.