

SENATE BILL 1719

By Norris

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 34, Part 2, relative to location information obtained from certain electronic devices.

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

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 34, Part 2, is amended by adding the following as a new section:

29-34-209.

(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) A state or local agency, including a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission; or (B) 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; and

(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 person aggrieved by a violation of this section shall have a cause of action against the offending government entity. If the person prevails in such an action, in no event shall the damages be less than two hundred dollars (\$200) and the government 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.