

HOUSE BILL NO. HB0274

Electronic Information or Data Privacy Act.

Sponsored by: Representative(s) Pelkey and Lindholm

A BILL

for

1 AN ACT relating to criminal procedure; requiring warrants to  
 2 obtain electronic information or data or other information on  
 3 electronic devices; providing exceptions; requiring  
 4 notification; providing immunity for compliance; providing  
 5 definitions; and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9       **Section 1.** W.S. 7-23-101 through 7-23-105 are created  
 10 to read:

11

12

CHAPTER 23

13

ELECTRONIC INFORMATION OR DATA PRIVACY ACT

14

15

**7-23-101. Short title.**

16

1 This act shall be known and may be cited as the "Electronic  
2 Information or Data Privacy Act".

3

4 **7-23-102. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Electronic communication service" means any  
9 service which provides to users of the service the ability to  
10 send or receive electronic information or data;

11

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

16

17 (iii) "Electronic information or data" means  
18 information or data including a sign, signal, writing, image,  
19 sound or intelligence of any nature transmitted or stored in  
20 whole or in part by a wire, radio, electromagnetic,  
21 photoelectronic or photooptical system. This term may  
22 include the location information, stored data or transmitted

1 data of an electronic device. This term shall not include  
2 any of the following:

3

4 (A) Any wire or oral communication;

5

6 (B) Any communication made through a tone  
7 only paging device;

8

9 (C) Any communication made through a tracking  
10 device;

11

12 (D) Electronic funds transfer information  
13 stored by a financial institution in a communications system  
14 used for the electronic storage and transfer of funds.

15

16 (iv) "Government entity" means the state and its  
17 agencies, municipalities, counties, school districts,  
18 political subdivisions and special districts, including a law  
19 enforcement entity or any other investigative entity, agency,  
20 department, division, bureau, board or commission, or a  
21 person acting or purporting to act for or on behalf of a state  
22 or local agency;

23

1           (v) "Location information" means information  
2 concerning the location of an electronic device that in whole  
3 or in part is generated or derived from or obtained by the  
4 operation of an electronic device;

5

6           (vi) "Location information service" means the  
7 provision of a global positioning service or other mapping,  
8 location or directional information service;

9

10           (vii) "Remote computing service" means the  
11 provision of computer storage or processing services by means  
12 of an electronic communications system as defined in W.S.  
13 7-3-701(a)(vii);

14

15           (viii) "This act" means W.S. 7-23-101 through  
16 7-23-105.

17

18           **7-23-103. Electronic information or data privacy;**  
19 **warrants for disclosure; exceptions.**

20

21           (a) Except as otherwise provided in this section, a  
22 government entity shall not:

23

1           (i) Obtain without a search warrant issued by a  
2 court upon probable cause any of the following:

3  
4           (A) Location information, stored data or  
5 transmitted data of an electronic device;

6  
7           (B) Electronic information or data  
8 transmitted by the owner of the electronic information or  
9 data to a remote computing service.

10  
11           (ii) Use, copy or disclose, for any purpose, the  
12 location information, stored data, transmitted data of an  
13 electronic device or electronic information or data provided  
14 by a remote computing service, that is collected as part of  
15 an effort to obtain electronic information or data under a  
16 warrant executed in accordance with this section but is not  
17 the subject of the warrant. Electronic information or data  
18 collected under this paragraph that is not the subject of the  
19 warrant shall be destroyed in an unrecoverable manner by the  
20 government entity as soon as reasonably possible after the  
21 electronic information or data is collected.

22  
23           (b) A government entity may:

1

2 (i) Obtain location information without a warrant  
3 for an electronic device:

4

5 (A) In accordance with the Emergency  
6 Telephone Service Act;

7

8 (B) If the device is reported stolen by the  
9 owner;

10

11 (C) With the informed, affirmative consent of  
12 the owner or user of the electronic device;

13

14 (D) In accordance with judicially recognized  
15 exceptions to warrant requirements; or

16

17 (E) If the owner has voluntarily and publicly  
18 disclosed the location information.

19

20 (ii) Use, copy or disclose transmitted electronic  
21 information or data of an electronic device used to  
22 communicate with the electronic device that is the subject of  
23 a warrant if the government entity reasonably believes that

1 the transmitted electronic information or data is necessary  
2 to achieve the objective of the warrant;

3

4 (iii) Receive and use electronic information or  
5 data containing the location information of an electronic  
6 device from a nongovernment entity as long as the electronic  
7 information or data contains no information that includes, or  
8 may reveal, the identity of a person. Electronic information  
9 or data collected in accordance with this paragraph shall not  
10 be used for investigative purposes by a law enforcement  
11 agency.

12

13 (c) Notwithstanding the provisions of this section, the  
14 attorney general or the district attorney may obtain a  
15 judicial order in accordance with W.S. 7-3-705 for the  
16 purposes specified in W.S. 7-3-705.

17

18 (d) An electronic communication service provider or  
19 remote computing service provider, its officers, employees,  
20 agents or other specified persons may not be held liable for  
21 providing information, facilities or assistance under the  
22 terms of a warrant executed in accordance with this section  
23 or without a warrant if authorized by this section.

1

2           **7-23-104. Notification.**

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4           (a) Except as otherwise provided in this section, a  
5 government entity that executes a warrant to obtain  
6 information as specified in W.S. 7-23-103(a)(i) shall, within  
7 fourteen (14) days after the day on which the operation  
8 concludes, issue a notification to the owner of the electronic  
9 device or electronic information or data specified in the  
10 warrant. Notification under this subsection shall include all  
11 of the following information:

12

13           (i) A statement that a warrant was applied for and  
14 granted;

15

16           (ii) The kind of warrant issued;

17

18           (iii) The period of time during which the  
19 collection of the electronic information or data was  
20 authorized;

21

22           (iv) The offense specified in the application for  
23 the warrant;



1

2           (v) The identity of the government entity that  
3 filed the application;

4

5           (vi) The identity of the judge who issued the  
6 warrant.

7

8           (b) A government entity seeking a warrant to obtain  
9 information as specified in W.S. 7-23-103(a)(i) may submit a  
10 request, and the court may grant permission, to delay the  
11 notification required by subsection (a) of this section for  
12 a period not to exceed thirty (30) days, if the court  
13 determines that there is probable cause to believe that the  
14 notification may do any of the following:

15

16           (i) Endanger the life or physical safety of a  
17 person;

18

19           (ii) Cause a person to flee from prosecution;

20

21           (iii) Lead to the destruction of or tampering with  
22 evidence;

23

1           (iv) Intimidate a potential witness;

2

3           (v) Otherwise seriously jeopardize an  
4 investigation or unduly delay a trial.

5

6           (c) When a delay of notification is granted under  
7 subsection (b) of this section, and upon application by the  
8 government entity, the court may grant additional extensions  
9 of up to thirty (30) days each.

10

11           (d) Upon expiration of the period of delayed  
12 notification granted under this section, the government  
13 entity shall serve upon or deliver by first class mail to the  
14 owner of the electronic device a copy of the warrant together  
15 with notice that states with reasonable specificity the  
16 nature of the law enforcement inquiry and includes all of the  
17 following:

18

19           (i) The information required under subsection (a)  
20 of this section;

21

22           (ii) A statement that notification of the search  
23 was delayed;

1

2 (iii) The name of the court that authorized the  
3 delay of notification;

4

5 (iv) A reference to the provision of this act that  
6 allowed the delay of notification.

7

8 (e) A government entity is not required to notify the  
9 owner of the electronic device or electronic information or  
10 data if the owner is located outside of the United States.

11

12 **7-23-105. Third party electronic information or data.**

13

14 (a) A person who transmits electronic information or  
15 data to a remote computing service is presumed to be the owner  
16 of the electronic information or data.

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18 (b) The person in subsection (a) of this section  
19 maintains a reasonable expectation of privacy in the  
20 electronic information or data stored by the remote computing  
21 service.

22

1           (c) Pursuant to W.S. 7-23-103(a) and except as  
2 otherwise provided in this subsection, a government entity  
3 shall not obtain, use, copy or disclose a person's electronic  
4 information or data stored by a remote computing service  
5 without first obtaining a warrant. A government entity may  
6 obtain, use, copy or disclose a person's electronic  
7 information or data stored by a remote computing service  
8 without a warrant:

9

10           (i) With the informed, affirmative consent of the  
11 owner of the electronic information or data; or

12

13           (ii) In accordance with judicially recognized  
14 exceptions to warrant requirements.

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16           **Section 2.** This act is effective July 1, 2019.

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(END)