

## Search Warrants for Location Information of Electronic Devices

With passage of this act, Montana became the first state to require state and local government entities to obtain a probable-cause warrant before remotely engaging personal electronic devices. Agencies may obtain location information in the case of emergencies or if an electronic device is stolen or if an individual gives authorized permission to access their location information.

Submitted as:

Montana

[HB 603](#)

Status: Signed into law on July 16, 2013.

### Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Short Title.*] An Act providing that a government entity must obtain a search warrant  
2 prior to obtaining location information of an electronic device; and providing exceptions,  
3 definitions, and a civil penalty.  
4
- 5 Section 2. [*Location information privacy – civil penalty.*]
- 6 (1) Except as provided in subsection (2), a government entity may not obtain the location  
7 information of an electronic device without a search warrant issued by a duly authorized  
8 court.
- 9 (2) A government entity may obtain location information of an electronic device under any of  
10 the following circumstances:  
11 (a) the device is reported stolen by the owner;  
12 (b) in order to respond to the user's call for emergency services;  
13 (c) with the informed, affirmative consent of the owner or user of the electronic device; or  
14 (d) there exists a possible life-threatening situation.
- 15 (3) Any evidence obtained in violation of this section is not admissible in a civil, criminal, or  
16 administrative proceeding and may not be used in an affidavit of probable cause in an effort  
17 to obtain a search warrant.
- 18 (4) A violation of this section will result in a civil fine not to exceed \$50.  
19
- 20 Section 3. [*Definitions.*] As used in [section 2] and this section, the following definitions apply:
- 21 (1) "Electronic communication service" means a service that provides to users of the service the  
22 ability to send or receive wire or electronic communications.
- 23 (2) "Electronic device" means a device that enables access to or use of an electronic  
24 communication service, remote computing service, or location information service.
- 25 (3) "Government entity" means a state or local agency, including but not limited to a law  
26 enforcement entity or any other investigative entity, agency, department, division, bureau,  
27 board, or commission or an individual acting or purporting to act for or on behalf of a state or  
28 local agency.

- 1 (4) "Location information" means information concerning the location of an electronic device  
2 that, in whole or in part, is generated or derived from or obtained by the operation of an  
3 electronic device.
- 4 (5) "Location information service" means the provision of a global positioning service or other  
5 mapping, locational, or directional information service.
- 6 (6) "Remote computing service" means the provision of computer storage or processing services  
7 by means of an electronic communications system.

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9 Section 4. [*Severability.*] Insert severability clause.

10

11 Section 5. [*Repealer.*] Insert repealer clause.

12

13 Section 6. [*Effective Date.*] Insert effective date.