

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated,
2 relating to searches with warrants, so as to narrow the circumstances of when location
3 information for electronic devices may be disclosed without a search warrant; to provide for
4 definitions; to provide for exceptions; to provide for a civil penalty and enforcement; to
5 provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 2 of Chapter 5 of Title 17 of the Official Code of Georgia Annotated, relating to
9 searches with warrants, is amended by adding a new Code section to read as follows:

10 "17-5-23.1.

11 (a) As used in this Code section, the term:

12 (1) 'Electronic communication service' means any service which provides to its users the
13 ability to send or receive wire or electronic communications.

14 (2) 'Electronic communications system' shall have the same meaning as set forth in Code
15 Section 16-9-92.

16 (3) 'Electronic device' means a device that enables access to or use of an electronic
17 communication service, location information service, or remote computing service.

18 (4) 'Government entity' means an office, agency, authority, department, commission,
19 board, body, division, instrumentality, or institution of the state or any county, municipal
20 corporation, consolidated government, or local board of education within this state.

21 (5) 'Location information' means information concerning the location of an electronic
22 device that, in whole or in part, is generated from, derived from, or obtained by the
23 operation of such electronic device.

24 (6) 'Location information service' means a service that provides a global positioning
25 system or other mapping, locational, or directional information.

26 (7) 'Remote computing service' means the provision of computer storage or processing
 27 services by means of an electronic communications system.

28 (b) Notwithstanding Code Sections 16-9-109, 16-11-66.1, and 35-3-4.1, and except as
 29 provided in subsection (c) of this Code section, a government entity, including any
 30 individual acting or purporting to act for or on behalf of such entity, shall not obtain
 31 location information without a search warrant issued by a duly authorized court.

32 (c) A government entity, including any individual acting or purporting to act for or on
 33 behalf of such entity, shall be permitted to obtain location information without a search
 34 warrant when:

35 (1) An electronic device is reported stolen by its owner;

36 (2) Such information is necessary to respond to an electronic device user's call for
 37 emergency services;

38 (3) The owner or user of an electronic device provides informed, affirmative consent to
 39 obtain such information; or

40 (4) A possible life-threatening situation exists.

41 (d) Any evidence obtained in violation of this Code section shall not be admissible in a
 42 civil, criminal, or administrative proceeding and shall not be used in an affidavit of
 43 probable cause to support a search warrant, unless the criteria in subsection (c) of this Code
 44 section are met.

45 (e) A violation of this Code section shall be punishable by a civil fine in an amount not to
 46 exceed \$50.00 for each violation. The prosecuting attorney or the Attorney General shall
 47 be authorized to prosecute the civil case. Each instance of a violation of this Code section
 48 shall constitute a separate offense."

49 **SECTION 2.**

50 All laws and parts of laws in conflict with this Act are repealed.