

2018 -- S 2291

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- CELL PHONE TRACKING

Introduced By: Senators Lynch Prata, and Lombardi

Date Introduced: February 01, 2018

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-32-2 and 12-32-3 of the General Laws in Chapter 12-32
2 entitled "Cell Phone Tracking" are hereby amended to read as follows:

3 **12-32-2. Requirement for warrant.**

4 No agent of the state, or any political subdivision of the state, shall obtain location
5 information without a warrant [or court order pursuant to chapters 5.1 and 5.2 of title 12](#) unless a
6 warrant requirement exception applies.

7 **12-32-3. Notice.**

8 (a) Unless delayed under subsection (b) [or exempted by subsection \(g\) of this section](#),
9 notice to the affected customer or subscriber is required not later than five (5) days after an agent
10 of the state, or any political subdivision of the state, receives location information under this
11 chapter that is obtained with or without a warrant; provided no notice shall be required if the
12 location information was obtained pursuant to § 12-32-4(a). The agent of the state, or any
13 political subdivision of the state, shall serve the following upon, or deliver to, the affected
14 customer or subscriber by registered mail, or first-class mail, or electronic mail, or any other
15 means permitted by the court issuing the warrant to be as effective:

16 (1) A copy of the warrant, if applicable; and

17 (2) A statement of the general nature of the law enforcement inquiry; and

18 (3) If applicable, an affirmation that location information maintained by a service
19 provider was supplied to a law enforcement officer; and

1 (4) If such location information was obtained, an identification of the service provider
2 from which the information was obtained; and

3 (5) If applicable, a statement indicating the identifying number associated with the
4 electronic device; and

5 (6) If applicable, the dates for which the location information was supplied; and

6 (7) A statement of whether notification of such customer(s) or subscriber(s) was delayed
7 pursuant to subsection (b); and

8 (8) If applicable, an identification of the court that made the certification or determination
9 pursuant to which that delay was made.

10 (b) Delay of notification. An agent of the state, or any political subdivision of the state,
11 acting under this chapter may include in the application a request for an order delaying the
12 notification required pursuant to this section for a period not to exceed ninety (90) days, and the
13 court shall issue the order if the court determines that there is reason to believe that notification of
14 the existence of the warrant may have an adverse result.

15 (c) Upon expiration of the period of delay granted under this section, the agent of the
16 state, or any political subdivision of the state, shall provide the affected customer(s) or
17 subscriber(s) a copy of the warrant, together with any notice required.

18 (d) Preclusion of notice to subject of governmental access. An agent of the state, or any
19 political subdivision of the state, acting under this chapter may include in the application a
20 request for an order directing a service provider to which a warrant is directed not to notify any
21 other person of the existence of the warrant for a period of not more than ninety (90) days, and
22 the court shall issue the order if the court determines that there is reason to believe that
23 notification of the existence of the warrant may have an adverse result.

24 (e) The court may, upon application, grant one or more extensions of orders granted
25 under this chapter for an additional ninety (90) days.

26 (f) Failure to comply with the notice provisions shall not be grounds for the suppression
27 of any evidence.

28 [\(g\) For location information obtained through a court order pursuant to chapters 5.1 and](#)
29 [5.2 of title 12, the notice of provisions of §§ 12-5.1-9 or 12-5.2-3 shall apply and not the](#)
30 [provisions of this section.](#)

31 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL PROCEDURE -- CELL PHONE TRACKING

- 1 This act would provide that the warrant and notice requirements for all cell phone
- 2 tracking do not apply to location information obtained by a court order dealing with interception
- 3 of wire and oral communications or dealing with pen registers and trap and trace devices.
- 4 This act would take effect upon passage.

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