LC000776

# STATE OF RHODE ISLAND

#### IN GENERAL ASSEMBLY

#### **JANUARY SESSION, A.D. 2017**

### AN ACT

#### RELATING TO CRIMINAL PROCEDURE - CELL PHONE TRACKING

Introduced By: Senator Erin P. Lynch Prata

Date Introduced: April 25, 2017

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

entitled "Cell Phone Tracking" are hereby amended to read as follows:

#### 12-32-2. Requirement for warrant.

No agent of the state, or any political subdivision of the state, shall obtain location

information without a warrant or court order pursuant to chapters 5.1 or 5.2 of this title, unless a

warrant requirement exception applies.

## 12-32-3. Notice.

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8 (a) Unless delayed under subsection (b) or exempted by subsection (g) of this section,

notice to the affected customer or subscriber is required not later than five (5) days after an agent

of the state, or any political subdivision of the state, receives location information under this

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

political subdivision of the state, shall serve the following upon, or deliver to, the affected

customer or subscriber by registered mail, or first-class mail, or electronic mail, or any other

means permitted by the court issuing the warrant to be as effective:

- (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

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 issued pursuant to chapters
29	5.1 or 5.2 of this title, the notice provisions of §§12-5.1-9 or 12-5.2-3 shall not apply and not the
30	provisions of this section.
31	SECTION 2. This act shall take effect upon passage.

(4) If such location information was obtained, an identification of the service provider

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# **EXPLANATION**

## BY THE LEGISLATIVE COUNCIL

OF

# AN ACT

# RELATING TO CRIMINAL PROCEDURE - CELL PHONE TRACKING

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This act would allow for the issuance of a court order to secure cell phone location information and changes the notice requirements needed to be provided for that type if court orders.

This act would take effect upon passage.