

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Freedom From Location Surveillance Act is
5 amended by changing Sections 10, 15, 20, and 25 as follows:

6 (725 ILCS 168/10)

7 Sec. 10. Court authorization. Except as provided in
8 Section 15, a law enforcement agency shall not obtain ~~current~~
9 ~~or future~~ location information pertaining to a person or his or
10 her effects without first obtaining a court order under Section
11 108-4 of the Code of Criminal Procedure of 1963 based on
12 probable cause to believe that the person whose location
13 information is sought has committed, is committing, or is about
14 to commit a crime or the effect is evidence of a crime, or if
15 the location information is authorized under an arrest warrant
16 issued under Section 107-9 of the Code of Criminal Procedure of
17 1963 to aid in the apprehension or the arrest of the person
18 named in the arrest warrant. An order issued under a finding of
19 probable cause under this Section must be limited to a period
20 of 60 days, renewable by the judge upon a showing of good cause
21 for subsequent periods of 60 days. A court may grant a law
22 enforcement entity's request to obtain ~~current or future~~
23 location information under this Section through testimony made

1 by electronic means using a simultaneous video and audio
2 transmission between the requestor and a judge, based on sworn
3 testimony communicated in the transmission. The entity making
4 the request, and the court authorizing the request shall follow
5 the procedure under subsection (c) of Section 108-4 of the Code
6 of Criminal Procedure of 1963 which authorizes the electronic
7 issuance of search warrants.

8 (Source: P.A. 98-1104, eff. 8-26-14; 99-798, eff. 1-1-17.)

9 (725 ILCS 168/15)

10 Sec. 15. Exceptions. This Act does not prohibit a law
11 enforcement agency from seeking to obtain ~~current or future~~
12 location information:

13 (1) to respond to a call for emergency services
14 concerning the user or possessor of an electronic device;

15 (2) with the lawful consent of the owner of the
16 electronic device or person in actual or constructive
17 possession of the item being tracked by the electronic
18 device;

19 (3) to lawfully obtain location information broadly
20 available to the general public without a court order when
21 the location information is posted on a social networking
22 website, or is metadata attached to images and video, or to
23 determine the location of an Internet Protocol (IP) address
24 through a publicly available service;

25 (4) to obtain location information generated by an

1 electronic device used as a condition of release from a
2 penal institution, as a condition of pre-trial release,
3 probation, conditional discharge, parole, mandatory
4 supervised release, or other sentencing order, or to
5 monitor an individual released under the Sexually Violent
6 Persons Commitment Act or the Sexually Dangerous Persons
7 Act;

8 (5) to aid in the location of a missing person;

9 (6) in emergencies as follows:

10 (A) Notwithstanding any other provisions of this
11 Act, any investigative or law enforcement officer may
12 seek to obtain location information in an emergency
13 situation as defined in this paragraph (6). This
14 paragraph (6) applies only when there was no previous
15 notice of the emergency to the investigative or law
16 enforcement officer sufficient to obtain prior
17 judicial approval, and the officer reasonably believes
18 that an order permitting the obtaining of location
19 information would issue were there prior judicial
20 review. An emergency situation exists when:

21 (i) the use of the electronic device is
22 necessary for the protection of the investigative
23 or law enforcement officer or a person acting at
24 the direction of law enforcement; or

25 (ii) the situation involves:

26 (aa) a clear and present danger of

1 imminent death or great bodily harm to persons
2 resulting from:

3 (I) the use of force or the threat of
4 the imminent use of force,

5 (II) a kidnapping or the holding of a
6 hostage by force or the threat of the
7 imminent use of force, or

8 (III) the occupation by force or the
9 threat of the imminent use of force of any
10 premises, place, vehicle, vessel, or
11 aircraft;

12 (bb) an abduction investigation;

13 (cc) conspiratorial activities
14 characteristic of organized crime;

15 (dd) an immediate threat to national
16 security interest;

17 (ee) an ongoing attack on a computer
18 comprising a felony; or

19 (ff) escape under Section 31-6 of the
20 Criminal Code of 2012.

21 (B) In all emergency cases, an application for an
22 order approving the previous or continuing obtaining
23 of location information must be made within 72 hours of
24 its commencement. In the absence of the order, or upon
25 its denial, any continuing obtaining of location
26 information gathering shall immediately terminate. In

1 order to approve obtaining location information, the
2 judge must make a determination (i) that he or she
3 would have granted an order had the information been
4 before the court prior to the obtaining of the location
5 information and (ii) there was an emergency situation
6 as defined in this paragraph (6).

7 (C) In the event that an application for approval
8 under this paragraph (6) is denied, the location
9 information obtained under this exception shall be
10 inadmissible in accordance with Section 20 of this Act;
11 or

12 (7) to obtain location information relating to an
13 electronic device used to track a vehicle or an effect
14 which is owned or leased by that law enforcement agency.

15 (Source: P.A. 98-1104, eff. 8-26-14; 99-798, eff. 1-1-17.)

16 (725 ILCS 168/20)

17 Sec. 20. Admissibility. If the court finds by a
18 preponderance of the evidence that a law enforcement agency
19 obtained ~~current or future~~ location information pertaining to a
20 person or his or her effects in violation of Section 10 or 15
21 of this Act, then the information shall be presumed to be
22 inadmissible in any judicial or administrative proceeding. The
23 State may overcome this presumption by proving the
24 applicability of a judicially recognized exception to the
25 exclusionary rule of the Fourth Amendment to the United States

1 Constitution or Article I, Section 6 of the Illinois
2 Constitution, or by a preponderance of the evidence that the
3 law enforcement officer was acting in good faith and reasonably
4 believed that one or more of the exceptions identified in
5 Section 15 existed at the time the location information was
6 obtained.

7 (Source: P.A. 98-1104, eff. 8-26-14.)

8 (725 ILCS 168/25)

9 Sec. 25. Providing location information to a law
10 enforcement agency not required. Nothing in this Act shall be
11 construed to require a person to provide ~~current or future~~
12 location information to a law enforcement agency under Section
13 15.

14 (Source: P.A. 98-1104, eff. 8-26-14.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.