



Rep. Ann M. Williams

Filed: 2/19/2019

10100HB2134ham001

LRB101 09879 SLF 56373 a

1 AMENDMENT TO HOUSE BILL 2134

2 AMENDMENT NO. _____. Amend House Bill 2134 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Freedom From Location Surveillance Act is
5 amended by changing Sections 5, 10, 15, 20, 25, and 30 as
6 follows:

7 (725 ILCS 168/5)

8 Sec. 5. Definitions. For the purpose of this Act:

9 "Basic subscriber information" means name, address, ~~local~~
10 ~~and long distance telephone connection records or records of~~
11 ~~session time and durations,~~ length of services, including start
12 dates, and types of services utilized; telephone or instrument
13 number or other subscriber number ~~or identity~~, including any
14 temporarily assigned network address; and the means and source
15 of payment for the service, ~~including the credit card or bank~~
16 ~~account number.~~

1 "Electronic device" means any device that enables access
2 to, or use of:

3 (1) an electronic communication service that provides
4 the ability to send or receive wire or electronic
5 communications, including wireless communications
6 connecting the device to a telephone network;

7 (2) a remote computing service that provides computer
8 storage or processing services by means of an electronic
9 communications system; or

10 (3) a location information service such as a global
11 positioning service or other mapping, locational, or
12 directional information service.

13 "Electronic device" does not mean devices used by a
14 governmental agency or by a company operating under a contract
15 with a governmental agency for toll collection, traffic
16 enforcement, or license plate reading.

17 "Law enforcement agency" means any agency of this State or
18 a political subdivision of this State which is vested by law
19 with the duty to maintain public order or enforce criminal
20 laws.

21 "Location information" means any information concerning
22 the location of an electronic device that, in whole or in part,
23 is generated by or derived from the operation or possession of
24 that device.

25 "Social networking website" has the same meaning ascribed
26 to the term in subsection (b) of Section 10 of the Right to

1 Privacy in the Workplace Act.

2 (Source: P.A. 98-1104, eff. 8-26-14; 99-610, eff. 1-1-17.)

3 (725 ILCS 168/10)

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

1 of Criminal Procedure of 1963 which authorizes the electronic
2 issuance of search warrants.

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

4 (725 ILCS 168/15)

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

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

10 (2) with the lawful consent of the owner of the
11 electronic device or person in actual or constructive
12 possession of the item being tracked by the electronic
13 device;

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

20 (4) to obtain location information generated by an
21 electronic device used as a condition of release from a
22 penal institution, as a condition of pre-trial release,
23 probation, conditional discharge, parole, mandatory
24 supervised release, or other sentencing order, or to
25 monitor an individual released under the Sexually Violent

1 Persons Commitment Act or the Sexually Dangerous Persons
2 Act;

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

4 (6) in emergencies as follows:

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

16 (i) the use of the electronic device is
17 necessary for the protection of the investigative
18 or law enforcement officer or a person acting at
19 the direction of law enforcement; or

20 (ii) the situation involves:

21 (aa) a clear and present danger of
22 imminent death or great bodily harm to persons
23 resulting from:

24 (I) the use of force or the threat of
25 the imminent use of force,

26 (II) a kidnapping or the holding of a

1 hostage by force or the threat of the
2 imminent use of force, or

3 (III) the occupation by force or the
4 threat of the imminent use of force of any
5 premises, place, vehicle, vessel, or
6 aircraft;

7 (bb) an abduction investigation;

8 (cc) conspiratorial activities
9 characteristic of organized crime;

10 (dd) an immediate threat to national
11 security interest;

12 (ee) an ongoing attack on a computer
13 comprising a felony; or

14 (ff) escape under Section 31-6 of the
15 Criminal Code of 2012.

16 (B) In all emergency cases, an application for an
17 order approving the previous or continuing obtaining
18 of location information must be made within 72 hours of
19 its commencement. In the absence of the order, or upon
20 its denial, any continuing obtaining of location
21 information gathering shall immediately terminate. In
22 order to approve obtaining location information, the
23 judge must make a determination (i) that he or she
24 would have granted an order had the information been
25 before the court prior to the obtaining of the location
26 information and (ii) there was an emergency situation

1 as defined in this paragraph (6).

2 (C) In the event that an application for approval
3 under this paragraph (6) is denied, the location
4 information obtained under this exception shall be
5 inadmissible in accordance with Section 20 of this Act;
6 or

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

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

11 (725 ILCS 168/20)

12 Sec. 20. Admissibility. If the court finds by a
13 preponderance of the evidence that a law enforcement agency
14 obtained ~~current or future~~ location information pertaining to a
15 person or his or her effects in violation of Section 10 or 15
16 of this Act, then the information shall be presumed to be
17 inadmissible in any judicial or administrative proceeding. The
18 State may overcome this presumption by proving the
19 applicability of a judicially recognized exception to the
20 exclusionary rule of the Fourth Amendment to the United States
21 Constitution or Article I, Section 6 of the Illinois
22 Constitution, or by a preponderance of the evidence that the
23 law enforcement officer was acting in good faith and reasonably
24 believed that one or more of the exceptions identified in
25 Section 15 existed at the time the location information was

1 obtained.

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

3 (725 ILCS 168/25)

4 Sec. 25. Providing location information to a law
5 enforcement agency not required. Nothing in this Act shall be
6 construed to require a person to provide ~~current or future~~
7 location information to a law enforcement agency under Section
8 15.

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

10 (725 ILCS 168/30)

11 Sec. 30. Inapplicability. This Act does not apply to a law
12 enforcement agency obtaining basic subscriber information from
13 a service provider under a valid ~~subpoena~~ court order~~7~~ or
14 search warrant.

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

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