



Rep. Ann M. Williams

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LRB101 09879 RLC 56638 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, and 25 as follows:

6 (725 ILCS 168/5)

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

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

16 "Electronic device" means any device that enables access

1 to, or use of:

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

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

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

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

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

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

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

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

2 (725 ILCS 168/10)

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

1 issuance of search warrants.

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

3 (725 ILCS 168/15)

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

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

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

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

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

1 Act;

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

3 (6) in emergencies as follows:

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

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

19 (ii) the situation involves:

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

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

25 (II) a kidnapping or the holding of a  
26 hostage by force or the threat of the

1                   imminent use of force, or

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

6                   (bb) an abduction investigation;

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

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

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

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

15                  (B) In all emergency cases, an application for an  
16                  order approving the previous or continuing obtaining  
17                  of location information must be made within 72 hours of  
18                  its commencement. In the absence of the order, or upon  
19                  its denial, any continuing obtaining of location  
20                  information gathering shall immediately terminate. In  
21                  order to approve obtaining location information, the  
22                  judge must make a determination (i) that he or she  
23                  would have granted an order had the information been  
24                  before the court prior to the obtaining of the location  
25                  information and (ii) there was an emergency situation  
26                  as defined in this paragraph (6).

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

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

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

10 (725 ILCS 168/20)

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

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

2 (725 ILCS 168/25)

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

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

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.".