



Sen. Daniel Biss

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LRB098 08324 RLC 41881 a

1 AMENDMENT TO SENATE BILL 1918

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1918 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Freedom From Cell Phone and GPS Location Surveillance Act.

6 Section 5. Definitions. For the purpose of this Act:

7 "Electronic device" means any device that enables access  
8 to, or use of:

9 (1) an electronic communication service that provides  
10 the ability to send or receive wire or electronic  
11 communications;

12 (2) a remote computing service that provides computer  
13 storage or processing services by means of an electronic  
14 communications system; or

15 (3) a location information service such as a global  
16 positioning service or other mapping, locational, or

1 directional information service.

2 "Electronic device" does not mean devices used by  
3 government for toll collection (such as I-Pass), or cameras  
4 used by government for traffic enforcement or license plate  
5 reading.

6 "Law enforcement agent" means any law enforcement officer  
7 of the State or political subdivision of the State, including,  
8 but not limited to, a law enforcement entity or any other  
9 investigative entity, agency, department, division, bureau,  
10 board, or commission, or any person acting or purporting to act  
11 for or on behalf of a State or local agency.

12 "Location information" means any information concerning  
13 the location of an electronic device that, in whole or in part,  
14 is generated by or derived from the operation of that device.

15 "Service provider" means the provider of an electronic  
16 communication service, remote computing service, or location  
17 information service.

18 Section 10. Warrant. Except as provided in Section 15, a  
19 law enforcement agent may not obtain location information  
20 without either a search warrant based on probable cause issued  
21 under Section 108-3 of the Code of Criminal Procedure of 1963,  
22 or an arrest warrant issued under Section 107-9 of that Code.

23 Section 15. Exceptions. Notwithstanding any other  
24 provisions of this Act, any law enforcement agent may obtain

1 location information:

2 (1) To respond to a call for emergency services from the  
3 user of the electronic device concerned.

4 (2) With the express consent of the subscriber or user of  
5 the electronic device concerned.

6 (3) When a law enforcement agent reasonably believes that  
7 obtaining location information without delay is necessary to  
8 protect a person from an imminent danger of death or great  
9 bodily harm, and the application to the service provider for  
10 location information is narrowly tailored to address this  
11 danger, subject to the following limitations:

12 (A) The application shall document the factual basis  
13 for believing that this danger requires obtaining the  
14 information without delay.

15 (B) The lead law enforcement agency involved in the  
16 investigation shall retain the application for a minimum of  
17 2 years, and shall provide it to the State's Attorney in  
18 the county in which the lead agency is located within 48  
19 hours of the time that the lead agency obtains access to  
20 records under this paragraph (3). If the application is  
21 denied by the service provider or the State's Attorney, or  
22 both, the lead agency shall also retain any documentation  
23 regarding the application's denial for a minimum of 2  
24 years.

25 (C) Subsequent or ongoing use of location information  
26 as described in this paragraph (3) beyond a 48-hour time

1 span requires a warrant.

2 Section 20. Admissibility. Compliance with the provisions  
3 of this Act is a prerequisite to the admissibility into  
4 evidence of any information concerning location information  
5 but nothing in this Act shall be deemed to prevent a court from  
6 otherwise excluding the evidence on any other ground, nor shall  
7 anything in this Section be deemed to prevent a court from  
8 independently reviewing the admissibility of the evidence for  
9 compliance with the Fourth Amendment to the U.S. Constitution  
10 or with Article I, Section 6 of the Illinois Constitution.".