



Sen. Chris Nybo

Filed: 3/17/2016

09900SB2875sam001

LRB099 18953 SLF 46347 a

1 AMENDMENT TO SENATE BILL 2875

2 AMENDMENT NO. _____. Amend Senate Bill 2875 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 10 and 15 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

1 1963 to aid in the apprehension or the arrest of the person
2 named in the arrest warrant. An order issued under a finding of
3 probable cause under this Section must be limited to a period
4 of 60 days, renewable by the judge upon a showing of good cause
5 for subsequent periods of 60 days. A court may grant a law
6 enforcement entity's request to obtain current or future
7 location information under this Section through testimony made
8 by electronic means using a simultaneous video and audio
9 transmission between the requestor and a judge, based on sworn
10 testimony communicated in the transmission. The entity making
11 the request, and the court authorizing the request shall follow
12 the procedure under subsection (c) of Section 108-4 of the Code
13 of Criminal Procedure of 1963 which authorizes the electronic
14 issuance of search warrants.

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

16 (725 ILCS 168/15)

17 Sec. 15. Exceptions. This Act does not prohibit a law
18 enforcement agency from seeking to obtain current or future
19 location information:

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

22 (2) with the lawful consent of the owner of the
23 electronic device or person in actual or constructive
24 possession of the item being tracked by the electronic
25 device;

1 (3) to lawfully obtain location information broadly
2 available to the general public without a court order when
3 the location information is posted on a social networking
4 website, or is metadata attached to images and video, or to
5 determine the location of an Internet Protocol (IP) address
6 through a publicly available service;

7 (4) to obtain location information generated by an
8 electronic device used as a condition of release from a
9 penal institution, as a condition of pre-trial release,
10 probation, conditional discharge, parole, mandatory
11 supervised release, or other sentencing order, or to
12 monitor an individual released under the Sexually Violent
13 Persons Commitment Act or the Sexually Dangerous Persons
14 Act;

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

16 (6) in emergencies as follows:

17 (A) Notwithstanding any other provisions of this
18 Act, any investigative or law enforcement officer may
19 seek to obtain location information in an emergency
20 situation as defined in this paragraph (6). This
21 paragraph (6) applies only when there was no previous
22 notice of the emergency to the investigative or law
23 enforcement officer sufficient to obtain prior
24 judicial approval, and the officer reasonably believes
25 that an order permitting the obtaining of location
26 information would issue were there prior judicial

1 review. An emergency situation exists when:

2 (i) the use of the electronic device is
3 necessary for the protection of the investigative
4 or law enforcement officer or a person acting at
5 the direction of law enforcement; or

6 (ii) the situation involves:

7 (aa) ~~(I)~~ a clear and present danger of
8 imminent death or great bodily harm to persons
9 resulting from:

10 (I) the use of force or the threat of
11 the imminent use of force,

12 (II) a kidnapping or the holding of a
13 hostage by force or the threat of the
14 imminent use of force, or

15 (III) the occupation by force or the
16 threat of the imminent use of force of any
17 premises, place, vehicle, vessel, or
18 aircraft;

19 (bb) ~~(II)~~ an abduction investigation;

20 (cc) ~~(III)~~ conspiratorial activities
21 characteristic of organized crime;

22 (dd) ~~(IV)~~ an immediate threat to national
23 security interest; ~~or~~

24 (ee) ~~(V)~~ an ongoing attack on a computer
25 comprising a felony; or

26 (ff) escape under Section 31-6 of the

1 Criminal Code of 2012.

2 (B) In all emergency cases, an application for an
3 order approving the previous or continuing obtaining
4 of location information must be made within 72 hours of
5 its commencement. In the absence of the order, or upon
6 its denial, any continuing obtaining of location
7 information gathering shall immediately terminate. In
8 order to approve obtaining location information, the
9 judge must make a determination (i) that he or she
10 would have granted an order had the information been
11 before the court prior to the obtaining of the location
12 information and (ii) there was an emergency situation
13 as defined in this paragraph (6).

14 (C) In the event that an application for approval
15 under this paragraph (6) is denied, the location
16 information obtained under this exception shall be
17 inadmissible in accordance with Section 20 of this Act;
18 or

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

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