

SECOND REGULAR SESSION

HOUSE BILL NO. 2791

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BAKER.

5130H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 542, RSMo, by adding thereto one new section relating to geofence warrants.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 542, RSMo, is amended by adding thereto one new section, to be known as section 542.650, to read as follows:

542.650. 1. As used in this section, the following terms mean:

(1) "Anonymized" or "amnonymization", identifying information connected to an electronic device in a manner such that the subject, including an individual, household, device, or internet protocol address, is not identifiable to a law enforcement agency;

(2) "Cell site", transmission or reception equipment, including a base-station antenna, that connects an electronic device to a network;

(3) "Cell site record", an electronic device's cell site location information that corresponds to a specific cell site and timeframe;

(4) "Committee", the crime prevention committees of the senate and the house of representatives;

(5) "Electronic device", a device that enables access to or use of a location information service or can otherwise create or provide location information;

(6) "Geofence", a specified geographic area defined by a virtual perimeter or by geographic coordinates;

(7) "Government entity":

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **(a) A state or local agency including, but not limited to, a law enforcement entity**
18 **or any other investigative entity, agency, department, division, bureau, board, or**
19 **commission, or an individual acting or purporting to act for or on behalf of a state or**
20 **local agency; or**

21 **(b) An individual or entity acting for or on behalf of an entity described in**
22 **subdivision (1) of subsection 7 of this section;**

23 **(8) "Identifying information", information tied to an electronic device that**
24 **identifies the user's or owner's:**

25 **(a) Name;**

26 **(b) Address;**

27 **(c) Phone number;**

28 **(d) Email address; or**

29 **(e) Other information that would identify the user or owner of the electronic**
30 **device;**

31 **(9) "Location information", information concerning the geographical location of**
32 **an electronic device that, in whole or in part, is generated, derived from, or obtained by**
33 **the operation of an electronic device or the operation of a software application on an**
34 **electronic device. "Location information" includes past, current, and future location**
35 **information;**

36 **(10) "Reverse location information", historical location information for:**

37 **(a) A defined time period;**

38 **(b) Within a geographic area; and**

39 **(c) Affecting more than one electronic device of which the identities of the users**
40 **or owners are unknown to law enforcement;**

41 **(11) "Reverse location warrant", a warrant seeking reverse location information**
42 **under subsection 2, 3, or 4 of this section.**

43 **2. (1) Except as provided in subsection 6 of this section, for a criminal**
44 **investigation or prosecution, a law enforcement agency shall not obtain reverse location**
45 **information for electronic devices within a geofence unless:**

46 **(a) The law enforcement agency obtains a search warrant as provided under this**
47 **subsection;**

48 **(b) The investigation or prosecution involves a violent felony; and**

49 **(c) The law enforcement agency is able to demonstrate an imminent, ongoing**
50 **threat to public safety.**

51 **(2) To obtain reverse location information inside of a geofence, a law**
52 **enforcement agency shall:**

53 **(a) Include with the sworn warrant application:**

54 a. A map or other visual depiction that represents the geofence for which the
55 warrant is seeking information; and

56 b. The following language at the beginning of the application in a legible font no
57 smaller than other text appearing in the application:

58 "NOTICE: This warrant application seeks judicial authorization for the
59 disclosure of reverse location information of electronic devices near a crime at or
60 near the time of the crime. If authorized, the warrant allows law enforcement to obtain
61 historical location information of all devices within the area described in the warrant
62 during the specified time from entities in possession of the relevant data. The electronic
63 devices captured in the warrant may be owned or used by both alleged criminal
64 perpetrators and individuals not involved in the commission of a crime. For this reason,
65 any warrant issued must require the anonymization of all devices associated with the
66 reverse location information."; and

67 (b) Establish probable cause to believe that evidence of a crime will be found
68 within the geofence and within the specified period of time.

69 (3) If a court grants a warrant under subdivision (2) of this subsection, the court
70 shall require that all electronic device data provided under the warrant be anonymized
71 before the reverse location information is released to the law enforcement agency.

72 3. (1) Except as provided in subsection 6 of this section, for a criminal
73 investigation or prosecution, a law enforcement agency shall not obtain reverse location
74 information based on cell site records unless:

75 (a) The law enforcement agency obtains a search warrant as provided under this
76 subsection;

77 (b) The investigation or prosecution involves a violent felony; and

78 (c) The law enforcement agency is able to demonstrate an imminent, ongoing
79 threat to public safety.

80 (2) To obtain cell site-based reverse location information, a law enforcement
81 agency shall:

82 (a) Include with the sworn warrant application:

83 a. A visual depiction or written description that identifies:

84 (i) The crime scene location and any other areas of interest related to the crime;

85 (ii) The location of cell sites from which the reverse location information is
86 sought; and

87 (iii) The distance between the locations described in items (i) and (ii) of this
88 subparagraph; and

89 b. The following language at the beginning of the application in a legible font no
90 smaller than other text appearing in the application:

91 **"NOTICE: This warrant application seeks judicial authorization for the**
92 **disclosure of reverse-location information of electronic devices near a crime at or**
93 **near the time of the crime. If authorized, the warrant allows law enforcement to obtain**
94 **historical location information of all devices within the area described in the warrant**
95 **during the specified time from entities in possession of the relevant data. The electronic**
96 **devices captured in the warrant may be owned or used by both alleged criminal**
97 **perpetrators and individuals not involved in the commission of a crime. For this reason,**
98 **any warrant issued must require the anonymization of all devices associated with the**
99 **reverse location information.";** and

100 (b) Establish probable cause to believe that evidence of a crime will be found
101 within the cell site records described in subparagraph a. of paragraph (a) of this
102 subdivision and within a specified period of time.

103 (3) If a court grants a warrant under subdivision (2) of this subsection, the court
104 shall require that all electronic device data provided under the warrant be anonymized
105 before the reverse location information is released to the law enforcement agency.

106 4. (1) If, after executing a warrant described in subsection 2 or 3 of this section,
107 a law enforcement agency seeks to obtain reverse location information beyond the
108 parameters of the warrant obtained under subsection 2 or 3 of this section, the law
109 enforcement agency shall:

110 (a) Include in the sworn warrant application the specific electronic devices
111 identified in the anonymized data for which the law enforcement agency seeks
112 additional reverse location information;

113 (b) Establish probable cause to believe that evidence of a crime will be found
114 within a specified period of time; and

115 (c) Affirm that the crime described in paragraph (b) of this subdivision is:

116 a. The same crime or directly related to the crime that was the subject of the
117 warrant obtained under subsection 2 or 3 of this section; or

118 b. A crime subject to the judicially recognized plain view exception to the
119 warrant requirement.

120 (2) If a court grants a warrant under subdivision (1) of this subsection, the court
121 shall require that all electronic device data provided under the warrant be anonymized
122 before the reverse location information is released to the law enforcement agency.

123 5. To obtain identifying information for an electronic device identified under a
124 warrant obtained under subsection 2, 3, or 4 of this section, a law enforcement agency
125 shall establish in the sworn warrant application probable cause to believe that the
126 electronic device was used or otherwise implicated in a crime.

127 **6. (1) Notwithstanding any other provision of law, a law enforcement agency**
128 **may obtain reverse location information without a warrant:**

129 **(a) In accordance with state law; or**

130 **(b) In accordance with a judicially recognized exception to warrant**
131 **requirement.**

132 **(2) Nothing in this section:**

133 **(a) Limits or affects the disclosure of public records under chapter 610;**

134 **(b) Affects the rights of an employer or an administrative rule; or**

135 **(c) Limits the ability of a law enforcement agency to receive or use information**
136 **from the National Center for Missing and Exploited Children under 18 U.S.C. Sec.**
137 **2258A without a warrant or subpoena.**

138 **7. (1) (a) A law enforcement agency shall not use, copy, or disclose, for any**
139 **purpose, reverse location information obtained under a warrant obtained under**
140 **subsection 2, 3, or 4 of this section that is:**

141 **a. Not related to the crime that is the subject of the warrant; and**

142 **b. Collected as part of an effort to obtain the reverse location information of an**
143 **electronic device that is related to the crime that is the subject of the warrant obtained**
144 **under subsection 2, 3, or 4 of this section.**

145 **(b) The law enforcement agency shall destroy in an unrecoverable manner the**
146 **reverse location information described in paragraph (a) of this subdivision as soon as**
147 **reasonably practicable after the criminal case is declined for prosecution or, if criminal**
148 **charges are filed, the final disposition of the criminal case.**

149 **(2) (a) Reverse location information obtained under subsection 2, 3, or 4 of this**
150 **section shall not be:**

151 **a. Compared with, merged with, linked to, or in any way electronically or**
152 **otherwise connected to, a source of electronic data, including a database or file,**
153 **containing one or more points of data that includes the location information provided by**
154 **an electronic device; or**

155 **b. Used in any other criminal investigation or prosecution.**

156 **(b) Subparagraph a. of paragraph (a) of this subdivision shall not apply if all the**
157 **electronic data, including the reverse location information, is obtained for the purpose**
158 **of investigating the same criminal incident.**

159 **(3) A person or entity that provides reverse location information under this**
160 **section shall ensure that the reverse location information is anonymized before the**
161 **reverse location information is provided to a law enforcement agency.**

162 **8. (1) (a) Except as provided in paragraph (b) of this subdivision or subdivision**
163 **(2) of this subsection, a law enforcement agency that executes a warrant under**

164 subsection 5 of this section shall serve a notice described in subdivision (3) of this
165 subsection on the owner of the electronic device for which identifying information was
166 obtained:

167 a. Within ninety days after the day on which the identifying information was
168 obtained by the law enforcement agency, but in no case more than three days after the
169 day on which the investigation was concluded; or

170 b. If the owner of the electronic device for which the identifying information
171 specified in the warrant is unknown to the law enforcement agency, within ninety days
172 after the day on which the law enforcement agency identifies, or reasonably could
173 identify, the owner.

174 (b) A law enforcement agency shall not be required to serve a notice described in
175 paragraph (a) of this subdivision to the owner of the electronic device for which
176 identifying information was obtained if the owner resides outside of the United States.

177 (2) (a) a. A law enforcement agency seeking a warrant in accordance with
178 subsection 5 of this section may submit a request, and the court may grant permission,
179 to delay service of the notice required under subdivision (1) of this subsection for a
180 period not to exceed thirty days if the court determines that there is reasonable cause to
181 believe that the notification may:

182 (i) Endanger the life or physical safety of an individual;

183 (ii) Cause a person to flee from prosecution;

184 (iii) Lead to the destruction of or tampering with evidence;

185 (iv) Intimidate a potential witness; or

186 (v) Otherwise seriously jeopardize an investigation or unduly delay a trial.

187 b. When a delay of notification is granted under subparagraph a. of paragraph
188 (a) of this subdivision and upon application by the law enforcement agency, the court
189 may grant additional extensions of up to thirty days each.

190 (b) a. A law enforcement agency that seeks a warrant in accordance with
191 subsection 5 of this section may submit a request to the court, and the court may grant
192 permission, to delay service of the notice required under subdivision (1) of this
193 subsection if the purpose of delaying the notification is to apprehend an individual:

194 (i) Who is a fugitive from justice; and

195 (ii) For whom an arrest warrant has been issued for a violent felony offense.

196 b. (i) The court may grant the request under subparagraph a. of paragraph (b)
197 of this subdivision to delay notification until the individual who is a fugitive from justice
198 is apprehended by the law enforcement agency.

199 (ii) A law enforcement agency shall service the notice required under subdivision
200 (1) of this subsection to the owner of the electronic device within fourteen days after the

201 **day on which the law enforcement agency apprehends the individual described in**
202 **subparagraph a. of paragraph (b) of this subdivision.**

203 **(3) A notice required under subdivision (1) of this subsection shall include:**

204 **(a) A copy of the warrant; and**

205 **(b) A written statement identifying:**

206 **a. The offense specified in the warrant application;**

207 **b. The identity of the law enforcement agency that filed the application;**

208 **c. The date on which the location information or identifying information was**
209 **obtained; and**

210 **d. The number and length of any authorized delays in serving the notice**
211 **required under subdivision (1) of this subsection, including, if applicable, the name of**
212 **the court that authorized the delay and a reference to the provision of this section that**
213 **permitted the delay.**

214 **(4) A law enforcement agency shall serve the notice required under subdivision**
215 **(1) of this subsection to the owner of the electronic device by:**

216 **(a) Personal service on the owner;**

217 **(b) First-class mail to the owner's last known address; or**

218 **(c) Other reasonable means if the owner's last known address is unknown.**

219 **9. Reverse location information or identifying information obtained in violation**
220 **of the provisions of this section shall be subject to the rules governing exclusion as if the**
221 **records were obtained in violation of the Fourth Amendment to the United States**
222 **Constitution and Article I, Section 15 of the Constitution of Missouri.**

223 **10. (1) (a) Beginning January 1, 2025, a law enforcement agency or any**
224 **government entity that obtained a reverse location warrant shall annually submit a**
225 **report on or before April thirtieth to the committee with the following data for the**
226 **previous calendar year:**

227 **a. The number of reverse location warrants requested by the law enforcement**
228 **agency under subsection 2, 3, or 4 of this section;**

229 **b. The number of reverse location warrants that a court granted after a request**
230 **described in subparagraph a. of this paragraph;**

231 **c. The number of investigations that used information obtained under a reverse**
232 **location warrant to investigate a crime that was not the subject of the reverse location**
233 **warrant;**

234 **d. The number of times reverse location information was obtained under an**
235 **exception listed in subsection 6 of this section;**

236 **e. The warrant identification number for each warrant described under**
237 **subparagraph b. or c. of this paragraph; and**

238 **f. The number of electronic devices for which anonymized electronic device data**
239 **was obtained under each reverse location warrant described under subparagraph b. of**
240 **this paragraph.**

241 **(b) A law enforcement agency shall compile the report described in paragraph**
242 **(a) of this subdivision for each year in the standardized format developed by the**
243 **committee under subdivision (3) of this subsection.**

244 **(2) If a reverse location warrant is requested by a multijurisdictional team of law**
245 **enforcement officers, the reporting requirement in this subsection shall be the**
246 **responsibility of the commanding agency or governing authority of the**
247 **multijurisdictional team.**

248 **(3) The committee shall:**

249 **(a) Develop a standardized format for reporting the data described in**
250 **subdivision (1) of this subsection;**

251 **(b) Compile the data submitted under subdivision (1) of this subsection; and**

252 **(c) Annually on or before August first, make publicly available a report of the**
253 **data described in subdivision (1) of this subsection.**

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