

House Study Bill 743 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
TRANSPORTATION BILL BY
CHAIRPERSON JONES)

A BILL FOR

- 1 An Act establishing procedures and requirements for
- 2 reverse-location information searches by law enforcement or
- 3 any governmental entity.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **808.17 Reverse-location warrant.**

2 1. For purposes of this section:

3 a. "Anonymized" means identifying information connected to an
4 electronic device in a manner such that the subject, including an
5 individual, household, device, or internet protocol address, is
6 not identifiable to a law enforcement agency.

7 b. "Cell site" means transmission or reception equipment,
8 including a base-station antenna, that connects an electronic
9 device to a network.

10 c. "Cell site record" means the cell site location
11 information of an electronic device that corresponds to a
12 specific cell site and time frame.

13 d. "Electronic device" means a device that enables access to
14 or use of a location information service or can otherwise create
15 or provide location information.

16 e. "Geofence" means a specified geographic area defined by a
17 virtual perimeter or geographic coordinates.

18 f. "Government entity" means a state or local agency,
19 including but not limited to a law enforcement entity or any
20 other investigative entity, agency, department, division, bureau,
21 board, or commission, or an individual or entity acting or
22 purporting to act for or on behalf of a state or local agency.

23 g. "Identifying information" means information tied to an
24 electronic device that identifies the user's or owner's name,
25 address, phone number, email address, or other information that
26 would identify the owner or user of the electronic device.

27 h. "Location information" means information concerning the
28 geographical location of an electronic device that, in whole
29 or in part, is generated, derived from, or obtained by the
30 operation of an electronic device or the operation of a software
31 application on an electronic device. "Location information"
32 includes past, current, and future location information.

33 i. "Reverse-location information" means historical location
34 information for a defined time period, within a geographic
35 location, that affects a number of electronic devices for which

1 the identities of the owners or users of the electronic devices
2 are unknown to law enforcement.

3 2. a. For a criminal investigation or prosecution, a law
4 enforcement agency shall not obtain reverse-location information
5 for electronic devices within a geofence unless the law
6 enforcement agency obtains a search warrant as provided under
7 this section, the investigation or prosecution involves a violent
8 felony, and the law enforcement agency can demonstrate an
9 imminent, ongoing threat to public safety.

10 b. To obtain reverse-location information inside of a
11 geofence, a law enforcement agency shall include with the sworn
12 warrant application all of the following:

13 (1) A map or other visual depiction that represents the
14 geofence for which the warrant is seeking information.

15 (2) The following language at the beginning of the
16 application in a legible font no smaller than other text
17 appearing in the application:

18 NOTICE: This warrant application seeks judicial authorization
19 for the disclosure of reverse-location information of electronic
20 devices near the location of a crime at or near the time of
21 the crime. If authorized, the warrant allows law enforcement
22 to obtain historical location information of all devices within
23 the area described in the warrant during the specified time from
24 entities in possession of the relevant data. The electronic
25 devices captured in the warrant may be owned or used by both
26 alleged criminal perpetrators and individuals not involved in
27 the commission of a crime. For this reason, any warrant issued
28 must require the anonymization of all devices associated with the
29 reverse-location information.

30 (3) Evidence establishing probable cause to believe that
31 evidence of a crime will be found within the geofence and within
32 a specified period of time.

33 c. If a court grants a warrant under this subsection, the
34 court shall require all electronic device data provided pursuant
35 to the warrant to be anonymized before the reverse-location

1 information is released to the law enforcement agency.

2 d. A law enforcement agency obtaining reverse-location
3 information by placing a geofence around a public building
4 without obtaining a search warrant shall not be justified by
5 qualified immunity.

6 3. a. For a criminal investigation or prosecution, a law
7 enforcement agency shall not obtain reverse-location information
8 based on cell site records unless the law enforcement agency
9 obtains a search warrant as provided under this section, the
10 investigation or prosecution involves a violent felony, and
11 the law enforcement agency can demonstrate an imminent, ongoing
12 threat to public safety.

13 b. To obtain cell site-based reverse-location information,
14 a law enforcement agency shall include with the sworn warrant
15 application all of the following:

16 (1) A visual depiction or written description that
17 identifies:

18 (a) The crime scene location and any other areas of interest
19 related to the crime.

20 (b) The location of cell sites from which the
21 reverse-location information is sought.

22 (c) The distance between the crime scene location and the
23 cell sites from which the reverse-location information is sought.

24 (2) The following language at the beginning of the
25 application in a legible font no smaller than other text
26 appearing in the application:

27 NOTICE: This warrant application seeks judicial authorization
28 for the disclosure of reverse-location information of electronic
29 devices near the location of a crime at or near the time of
30 the crime. If authorized, the warrant allows law enforcement
31 to obtain historical location information of all devices within
32 the area described in the warrant during the specified time from
33 entities in possession of the relevant data. The electronic
34 devices captured in the warrant may be owned or used by both
35 alleged criminal perpetrators and individuals not involved in

1 the commission of a crime. For this reason, any warrant issued
2 must require the anonymization of all devices associated with the
3 reverse-location information.

4 (3) Evidence establishing probable cause to believe that
5 evidence of a crime will be found within the cell site records
6 and within a specified period of time.

7 c. If a court grants a warrant under this subsection, the
8 court shall require all electronic device data provided pursuant
9 to the warrant to be anonymized before the reverse-location
10 information is released to the law enforcement agency.

11 4. a. If, after executing a warrant described in subsection
12 2 or 3, a law enforcement agency seeks to obtain reverse-location
13 information beyond the parameters of the warrant, the law
14 enforcement agency shall do all of the following:

15 (1) Include in the sworn warrant application the specific
16 electronic devices identified in the anonymized data for which
17 the law enforcement agency seeks additional reverse-location
18 information.

19 (2) Establish probable cause to believe that evidence of a
20 crime will be found within a specified period of time.

21 (3) Affirm that the crime described in subparagraph (2) is
22 the same crime or directly related to the crime that was the
23 subject of the warrant obtained under subsection 2 or 3, or is
24 a crime subject to the judicially recognized plain-view exception
25 to the warrant requirement.

26 b. If a court grants a warrant under this subsection, the
27 court shall require all electronic device data provided pursuant
28 to the warrant to be anonymized before the reverse-location
29 information is released to the law enforcement agency.

30 5. To obtain identifying information for an electronic device
31 identified pursuant to a warrant obtained under subsection 2,
32 3, or 4, a law enforcement agency shall establish in the sworn
33 warrant application probable cause to believe that the electronic
34 device was used or otherwise implicated in a crime.

35 6. a. A law enforcement agency shall not use, copy, or

1 disclose, for any purpose, reverse-location information obtained
2 under a warrant under subsection 2, 3, or 4, that is all of the
3 following:

4 (1) Not related to the crime that is the subject of the
5 warrant.

6 (2) Collected as part of an effort to obtain the
7 reverse-location information of an electronic device that is
8 related to the crime that is the subject of the warrant obtained
9 under subsection 2, 3, or 4.

10 b. The law enforcement agency shall destroy in an
11 unrecoverable manner the reverse-location information described
12 in paragraph "a" as soon as reasonably possible after the
13 criminal case is declined for prosecution or, if criminal charges
14 are filed, upon the final disposition of the criminal case.

15 c. Reverse-location information obtained under subsection 2,
16 3, or 4 shall not be used in any of the following manners:

17 (1) Compared with, merged with, linked to, or in any way
18 electronically or otherwise connected to a source of electronic
19 data, including a database or file, containing one or more points
20 of data that includes the location information provided by an
21 electronic device unless all of the electronic data, including
22 the reverse-location information, is obtained for the purpose of
23 investigating the same criminal incident.

24 (2) Used in any other criminal investigation or prosecution.

25 d. A person or entity that provides reverse-location
26 information under this section shall ensure that the
27 reverse-location information is anonymized before the
28 reverse-location information is provided to a law enforcement
29 agency.

30 7. a. Except as provided in paragraph "b" or "c", a law
31 enforcement agency that executes a warrant under subsection 5
32 shall serve a notice described in subsection 3 on the owner
33 of the electronic device for which identifying information was
34 obtained as follows:

35 (1) Within ninety days after the day on which the identifying

1 information is obtained by the law enforcement agency, but
2 in no case more than three days after the day on which the
3 investigation is concluded.

4 (2) If the owner of the electronic device for which the
5 identifying information specified in the warrant is unknown to
6 the law enforcement agency, within ninety days after the day on
7 which the law enforcement agency identifies, or reasonably could
8 identify, the owner.

9 b. A law enforcement agency is not required to serve a notice
10 described in paragraph "a" to the owner of the electronic device
11 for which identifying information was obtained if the owner
12 resides outside of the United States.

13 c. A law enforcement agency seeking a warrant in accordance
14 with subsection 5 may submit a request, and the court may
15 grant permission, to delay service of the notice required under
16 paragraph "a" for a period not to exceed thirty days if the court
17 determines that there is reasonable cause to believe that the
18 notification may do any of the following:

19 (1) Endanger the life or physical safety of an individual.

20 (2) Cause a person to flee from prosecution.

21 (3) Lead to the destruction of or tampering with evidence.

22 (4) Intimidate a potential witness.

23 (5) Otherwise seriously jeopardize an investigation or unduly
24 delay a trial.

25 d. When a delay of notification is granted under paragraph
26 "c" and upon application by the law enforcement agency, the court
27 may grant additional extensions of up to thirty days each.

28 e. (1) A law enforcement agency that seeks a warrant in
29 accordance with subsection 5 may submit a request to the court,
30 and the court may grant permission, to delay service of the
31 notice required under paragraph "a" if the purpose of delaying
32 the notification is to apprehend an individual who is a fugitive
33 from justice for whom an arrest warrant has been issued for a
34 forcible felony as defined in section 702.11.

35 (2) The court may grant the request to delay notification

1 until the individual who is a fugitive is apprehended by the law
2 enforcement agency.

3 *f.* The notice required under paragraph "a" shall include all
4 of the following:

5 (1) A copy of the warrant.

6 (2) A written statement identifying the offense specified in
7 the warrant application, the identity of the law enforcement
8 agency that filed the application, the date on which the location
9 information or identifying information was obtained, and the
10 number and length of any authorized delays in serving the notice
11 required under paragraph "a" including, if applicable, the name
12 of the court that authorized the delay and a reference to the
13 provision of this section that permitted the delay.

14 *g.* A law enforcement agency shall serve the notice required
15 under paragraph "a" to the owner of the electronic device by
16 personal service on the owner, by first class mail to the owner's
17 last known address, or by other reasonable means if the owner's
18 last known address is unknown.

19 8. Reverse-location information or identifying information
20 obtained in violation of the provisions of this section shall be
21 subject to the rules governing exclusion of evidence as if the
22 records were obtained in violation of the fourth amendment to the
23 Constitution of the United States and Article I, section 8, of
24 the Constitution of the State of Iowa.

25 9. Beginning January 1, 2027, a law enforcement agency or any
26 government entity that obtained a reverse-location warrant shall
27 annually, on or before April 30, submit a report to the general
28 assembly with the following data for the previous calendar year:

29 *a.* The number of reverse-location warrants requested by the
30 law enforcement agency under subsection 2, 3, or 4.

31 *b.* The number of investigations that used information
32 obtained under a reverse-location warrant to investigate a crime
33 that was not the subject of the reverse-location warrant.

34 *c.* The number of times identifying information for an
35 electronic device was obtained under subsection 5.

1 d. The number of electronic devices for which anonymized
2 electronic device data was obtained under each reverse-location
3 warrant described under subsection 2, paragraph "a".

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill establishes procedures and requirements for
8 reverse-location searches by law enforcement or any governmental
9 entity.

10 The bill provides that for a criminal investigation
11 or prosecution, a law enforcement agency shall not obtain
12 reverse-location information for electronic devices within a
13 geofence unless the law enforcement agency obtains a search
14 warrant as provided under the bill, the investigation or
15 prosecution involves a violent felony, and the law enforcement
16 agency can demonstrate an imminent, ongoing threat to public
17 safety. A law enforcement agency shall include with the
18 sworn warrant application a map or other visual depiction
19 that represents the geofence for which the warrant is seeking
20 information and specific language providing notice. If a court
21 grants a warrant, the court shall require all electronic device
22 data provided pursuant to the warrant to be anonymized before the
23 reverse-location information is released to the law enforcement
24 agency. A law enforcement agency that obtains reverse-location
25 information by placing a geofence around a public building
26 without obtaining a search warrant is not justified by qualified
27 immunity.

28 The bill provides that a law enforcement agency shall not
29 obtain reverse-location information based on cell site records
30 unless the law enforcement agency obtains a search warrant as
31 provided, the investigation or prosecution involves a violent
32 felony, and the law enforcement agency can demonstrate an
33 imminent, ongoing threat to public safety. To obtain cell
34 site-based reverse-location information, a law enforcement agency
35 shall include with the sworn warrant application a visual

1 depiction or written description that identifies the crime scene
2 location and any other areas of interest related to the crime,
3 the location of cell sites from which the reverse-location
4 information is sought, and the distance between the crime scene
5 location and the cell sites from which the reverse-location
6 information is sought; provide specific notice language; and
7 establish probable cause to believe that evidence of a crime will
8 be found within the cell site records and within a specified
9 period of time. If a court grants a warrant, the court shall
10 require all electronic device data provided pursuant to the
11 warrant to be anonymized before the reverse-location information
12 is released to the law enforcement agency.

13 The bill provides that a law enforcement agency shall not use,
14 copy, or disclose, for any purpose, reverse-location information
15 obtained under a warrant that is not related to the crime
16 that is the subject of the warrant and is collected as part
17 of an effort to obtain the reverse-location information of an
18 electronic device that is related to the crime that is the
19 subject of the warrant obtained under the bill. The law
20 enforcement agency shall destroy in an unrecoverable manner the
21 reverse-location information as soon as reasonably possible after
22 the criminal case is declined for prosecution or, if criminal
23 charges are filed, upon the final disposition of the criminal
24 case. Reverse-location information shall not be compared with,
25 merged with, linked to, or in any way electronically or otherwise
26 connected to a source of electronic data, or used in any other
27 criminal investigation unless all the electronic data is obtained
28 for the purpose of investigating the same criminal incident. A
29 person or entity that provides reverse-location information shall
30 ensure that the reverse-location information is anonymized before
31 the reverse-location information is provided to a law enforcement
32 agency.

33 The bill provides the procedure for obtaining additional
34 identifying information. A law enforcement agency seeking a
35 warrant may submit a request, and the court may grant permission,

1 to delay service of the notice required not to exceed 30 days if
2 the court determines that there is reasonable cause to believe
3 that the notification may do any of the following: endanger the
4 life or physical safety of an individual, cause a person to flee
5 from prosecution, lead to the destruction of or tampering with
6 evidence, intimidate a potential witness, or otherwise seriously
7 jeopardize an investigation or unduly delay a trial.

8 The bill provides that reverse-location information or
9 identifying information obtained in violation of the provisions
10 of the bill is subject to the rules governing exclusion of
11 evidence as if the records were obtained in violation of the
12 fourth amendment to the Constitution of the United States and
13 Article I, section 8, of the Constitution of the State of Iowa.

14 Beginning January 1, 2027, a law enforcement agency or any
15 government entity that obtained a reverse-location warrant shall
16 annually, on or before April 30, submit a report to the general
17 assembly.

18 The bill provides definitions.