

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:

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

2 1. For purposes of this section:

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

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

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

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

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

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

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

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

1 *i.* "Reverse-location information" means historical location
2 information for a defined time period, within a geographic
3 location, that affects a number of electronic devices for which
4 the identities of the owners or users of the electronic devices
5 are unknown to law enforcement.

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

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

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

18 (2) The following language at the beginning of the
19 application in a legible font no smaller than other text
20 appearing in the application:

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

34 (3) Evidence establishing probable cause to believe that
35 evidence of a crime will be found within the geofence and

1 within a specified period of time.

2 *c.* If a court grants a warrant under this subsection,
3 the court shall require all electronic device data provided
4 pursuant to the warrant to be anonymized before the
5 reverse-location information is released to the law enforcement
6 agency.

7 *d.* A law enforcement agency obtaining reverse-location
8 information by placing a geofence around a public building
9 without obtaining a search warrant shall not be justified by
10 qualified immunity.

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

18 *b.* To obtain cell site-based reverse-location information,
19 a law enforcement agency shall include with the sworn warrant
20 application all of the following:

21 (1) A visual depiction or written description that
22 identifies:

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

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

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

30 (2) The following language at the beginning of the
31 application in a legible font no smaller than other text
32 appearing in the application:

33 NOTICE: This warrant application seeks judicial
34 authorization for the disclosure of reverse-location
35 information of electronic devices near the location of a

1 crime at or near the time of the crime. If authorized, the
2 warrant allows law enforcement to obtain historical location
3 information of all devices within the area described in the
4 warrant during the specified time from entities in possession
5 of the relevant data. The electronic devices captured in
6 the warrant may be owned or used by both alleged criminal
7 perpetrators and individuals not involved in the commission
8 of a crime. For this reason, any warrant issued must
9 require the anonymization of all devices associated with the
10 reverse-location information.

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

14 *c.* If a court grants a warrant under this subsection,
15 the court shall require all electronic device data provided
16 pursuant to the warrant to be anonymized before the
17 reverse-location information is released to the law enforcement
18 agency.

19 4. *a.* If, after executing a warrant described in
20 subsection 2 or 3, a law enforcement agency seeks to obtain
21 reverse-location information beyond the parameters of the
22 warrant, the law enforcement agency shall do all of the
23 following:

24 (1) Include in the sworn warrant application the specific
25 electronic devices identified in the anonymized data for which
26 the law enforcement agency seeks additional reverse-location
27 information.

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

30 (3) Affirm that the crime described in subparagraph (2)
31 is the same crime or directly related to the crime that was
32 the subject of the warrant obtained under subsection 2 or 3,
33 or is a crime subject to the judicially recognized plain-view
34 exception to the warrant requirement.

35 *b.* If a court grants a warrant under this subsection,

1 the court shall require all electronic device data provided
2 pursuant to the warrant to be anonymized before the
3 reverse-location information is released to the law enforcement
4 agency.

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

11 6. *a.* A law enforcement agency shall not use, copy,
12 or disclose, for any purpose, reverse-location information
13 obtained under a warrant under subsection 2, 3, or 4, that is
14 all of the following:

15 (1) Not related to the crime that is the subject of the
16 warrant.

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

21 *b.* The law enforcement agency shall destroy in an
22 unrecoverable manner the reverse-location information described
23 in paragraph "a" as soon as reasonably possible after the
24 criminal case is declined for prosecution or, if criminal
25 charges are filed, upon the final disposition of the criminal
26 case.

27 *c.* Reverse-location information obtained under subsection 2,
28 3, or 4 shall not be used in any of the following manners:

29 (1) Compared with, merged with, linked to, or in any way
30 electronically or otherwise connected to a source of electronic
31 data, including a database or file, containing one or more
32 points of data that includes the location information provided
33 by an electronic device unless all of the electronic data,
34 including the reverse-location information, is obtained for the
35 purpose of investigating the same criminal incident.

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

3 *d.* A person or entity that provides reverse-location
4 information under this section shall ensure that the
5 reverse-location information is anonymized before the
6 reverse-location information is provided to a law enforcement
7 agency.

8 7. *a.* Except as provided in paragraph "b" or "c", a law
9 enforcement agency that executes a warrant under subsection 5
10 shall serve a notice described in subsection 3 on the owner of
11 the electronic device for which identifying information was
12 obtained as follows:

13 (1) Within ninety days after the day on which the
14 identifying information is obtained by the law enforcement
15 agency, but in no case more than three days after the day on
16 which the investigation is concluded.

17 (2) If the owner of the electronic device for which the
18 identifying information specified in the warrant is unknown to
19 the law enforcement agency, within ninety days after the day
20 on which the law enforcement agency identifies, or reasonably
21 could identify, the owner.

22 *b.* A law enforcement agency is not required to serve a
23 notice described in paragraph "a" to the owner of the electronic
24 device for which identifying information was obtained if the
25 owner resides outside of the United States.

26 *c.* A law enforcement agency seeking a warrant in accordance
27 with subsection 5 may submit a request, and the court may grant
28 permission, to delay service of the notice required under
29 paragraph "a" for a period not to exceed thirty days if the
30 court determines that there is reasonable cause to believe that
31 the notification may do any of the following:

- 32 (1) Endanger the life or physical safety of an individual.
33 (2) Cause a person to flee from prosecution.
34 (3) Lead to the destruction of or tampering with evidence.
35 (4) Intimidate a potential witness.

1 (5) Otherwise seriously jeopardize an investigation or
2 unduly delay a trial.

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

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

14 (2) The court may grant the request to delay notification
15 until the individual who is a fugitive is apprehended by the
16 law enforcement agency.

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

19 (1) A copy of the warrant.

20 (2) A written statement identifying the offense specified
21 in the warrant application, the identity of the law enforcement
22 agency that filed the application, the date on which the
23 location information or identifying information was obtained,
24 and the number and length of any authorized delays in
25 serving the notice required under paragraph "a" including, if
26 applicable, the name of the court that authorized the delay and
27 a reference to the provision of this section that permitted the
28 delay.

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

34 8. Reverse-location information or identifying information
35 obtained in violation of the provisions of this section shall

1 be subject to the rules governing exclusion of evidence as if
2 the records were obtained in violation of the fourth amendment
3 to the Constitution of the United States and Article I, section
4 8, of the Constitution of the State of Iowa.

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

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

12 b. The number of investigations that used information
13 obtained under a reverse-location warrant to investigate a
14 crime that was not the subject of the reverse-location warrant.

15 c. The number of times identifying information for an
16 electronic device was obtained under subsection 5.

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

20 EXPLANATION

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

23 This bill establishes procedures and requirements
24 for reverse-location searches by law enforcement or any
25 governmental entity.

26 The bill provides that for a criminal investigation or
27 prosecution, a law enforcement agency shall not obtain
28 reverse-location information for electronic devices within a
29 geofence unless the law enforcement agency obtains a search
30 warrant as provided under the bill, the investigation or
31 prosecution involves a violent felony, and the law enforcement
32 agency can demonstrate an imminent, ongoing threat to public
33 safety. A law enforcement agency shall include with the
34 sworn warrant application a map or other visual depiction
35 that represents the geofence for which the warrant is seeking

1 information and specific language providing notice. If a
2 court grants a warrant, the court shall require all electronic
3 device data provided pursuant to the warrant to be anonymized
4 before the reverse-location information is released to the law
5 enforcement agency. A law enforcement agency that obtains
6 reverse-location information by placing a geofence around a
7 public building without obtaining a search warrant is not
8 justified by qualified immunity.

9 The bill provides that a law enforcement agency shall not
10 obtain reverse-location information based on cell site records
11 unless the law enforcement agency obtains a search warrant as
12 provided, the investigation or prosecution involves a violent
13 felony, and the law enforcement agency can demonstrate an
14 imminent, ongoing threat to public safety. To obtain cell
15 site-based reverse-location information, a law enforcement
16 agency shall include with the sworn warrant application a
17 visual depiction or written description that identifies the
18 crime scene location and any other areas of interest related
19 to the crime, the location of cell sites from which the
20 reverse-location information is sought, and the distance
21 between the crime scene location and the cell sites from which
22 the reverse-location information is sought; provide specific
23 notice language; and establish probable cause to believe that
24 evidence of a crime will be found within the cell site records
25 and within a specified period of time. If a court grants a
26 warrant, the court shall require all electronic device data
27 provided pursuant to the warrant to be anonymized before the
28 reverse-location information is released to the law enforcement
29 agency.

30 The bill provides that a law enforcement agency shall not
31 use, copy, or disclose, for any purpose, reverse-location
32 information obtained under a warrant that is not related to the
33 crime that is the subject of the warrant and is collected as
34 part of an effort to obtain the reverse-location information
35 of an electronic device that is related to the crime that

1 is the subject of the warrant obtained under the bill. The
2 law enforcement agency shall destroy in an unrecoverable
3 manner the reverse-location information as soon as reasonably
4 possible after the criminal case is declined for prosecution
5 or, if criminal charges are filed, upon the final disposition
6 of the criminal case. Reverse-location information shall
7 not be compared with, merged with, linked to, or in any
8 way electronically or otherwise connected to a source of
9 electronic data, or used in any other criminal investigation
10 unless all the electronic data is obtained for the purpose of
11 investigating the same criminal incident. A person or entity
12 that provides reverse-location information shall ensure that
13 the reverse-location information is anonymized before the
14 reverse-location information is provided to a law enforcement
15 agency.

16 The bill provides the procedure for obtaining additional
17 identifying information. A law enforcement agency seeking
18 a warrant may submit a request, and the court may grant
19 permission, to delay service of the notice required not
20 to exceed 30 days if the court determines that there is
21 reasonable cause to believe that the notification may do any
22 of the following: endanger the life or physical safety of
23 an individual, cause a person to flee from prosecution, lead
24 to the destruction of or tampering with evidence, intimidate
25 a potential witness, or otherwise seriously jeopardize an
26 investigation or unduly delay a trial.

27 The bill provides that reverse-location information or
28 identifying information obtained in violation of the provisions
29 of the bill is subject to the rules governing exclusion of
30 evidence as if the records were obtained in violation of the
31 fourth amendment to the Constitution of the United States and
32 Article I, section 8, of the Constitution of the State of Iowa.

33 Beginning January 1, 2027, a law enforcement agency or any
34 government entity that obtained a reverse-location warrant
35 shall annually, on or before April 30, submit a report to the

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1 general assembly.

2 The bill provides definitions.