

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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  
17 1963 to aid in the apprehension or the arrest of the person  
18 named in the arrest warrant. An order issued under a finding of  
19 probable cause under this Section must be limited to a period  
20 of 60 days, renewable by the judge upon a showing of good cause  
21 for subsequent periods of 60 days. A court may grant a law  
22 enforcement entity's request to obtain current or future  
23 location information under this Section through testimony made

1 by electronic means using a simultaneous video and audio  
2 transmission between the requestor and a judge, based on sworn  
3 testimony communicated in the transmission. The entity making  
4 the request, and the court authorizing the request shall follow  
5 the procedure under subsection (c) of Section 108-4 of the Code  
6 of Criminal Procedure of 1963 which authorizes the electronic  
7 issuance of search warrants.

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

9 (725 ILCS 168/15)

10 Sec. 15. Exceptions. This Act does not prohibit a law  
11 enforcement agency from seeking to obtain current or future  
12 location information:

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

15 (2) with the lawful consent of the owner of the  
16 electronic device or person in actual or constructive  
17 possession of the item being tracked by the electronic  
18 device;

19 (3) to lawfully obtain location information broadly  
20 available to the general public without a court order when  
21 the location information is posted on a social networking  
22 website, or is metadata attached to images and video, or to  
23 determine the location of an Internet Protocol (IP) address  
24 through a publicly available service;

25 (4) to obtain location information generated by an

1 electronic device used as a condition of release from a  
2 penal institution, as a condition of pre-trial release,  
3 probation, conditional discharge, parole, mandatory  
4 supervised release, or other sentencing order, or to  
5 monitor an individual released under the Sexually Violent  
6 Persons Commitment Act or the Sexually Dangerous Persons  
7 Act;

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

9 (6) in emergencies as follows:

10 (A) Notwithstanding any other provisions of this  
11 Act, any investigative or law enforcement officer may  
12 seek to obtain location information in an emergency  
13 situation as defined in this paragraph (6). This  
14 paragraph (6) applies only when there was no previous  
15 notice of the emergency to the investigative or law  
16 enforcement officer sufficient to obtain prior  
17 judicial approval, and the officer reasonably believes  
18 that an order permitting the obtaining of location  
19 information would issue were there prior judicial  
20 review. An emergency situation exists when:

21 (i) the use of the electronic device is  
22 necessary for the protection of the investigative  
23 or law enforcement officer or a person acting at  
24 the direction of law enforcement; or

25 (ii) the situation involves:

26 (aa) ~~(I)~~ a clear and present danger of

1 imminent death or great bodily harm to persons  
2 resulting from:

3 (I) the use of force or the threat of  
4 the imminent use of force,

5 (II) a kidnapping or the holding of a  
6 hostage by force or the threat of the  
7 imminent use of force, or

8 (III) the occupation by force or the  
9 threat of the imminent use of force of any  
10 premises, place, vehicle, vessel, or  
11 aircraft;

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

13 (cc) ~~(III)~~ conspiratorial activities  
14 characteristic of organized crime;

15 (dd) ~~(IV)~~ an immediate threat to national  
16 security interest; ~~or~~

17 (ee) ~~(V)~~ an ongoing attack on a computer  
18 comprising a felony; ~~or~~.

19 (ff) escape under Section 31-6 of the  
20 Criminal Code of 2012.

21 (B) In all emergency cases, an application for an  
22 order approving the previous or continuing obtaining  
23 of location information must be made within 72 hours of  
24 its commencement. In the absence of the order, or upon  
25 its denial, any continuing obtaining of location  
26 information gathering shall immediately terminate. In

1 order to approve obtaining location information, the  
2 judge must make a determination (i) that he or she  
3 would have granted an order had the information been  
4 before the court prior to the obtaining of the location  
5 information and (ii) there was an emergency situation  
6 as defined in this paragraph (6).

7 (C) In the event that an application for approval  
8 under this paragraph (6) is denied, the location  
9 information obtained under this exception shall be  
10 inadmissible in accordance with Section 20 of this Act;  
11 or

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

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