

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Grant, J. offered the following:

3
4 **Amendment (with title amendment)**

5 Remove lines 117-228 and insert:

6 (1) Except as provided in subsection (3), whoever:

7 (a) Intentionally accesses without authorization a
8 facility through which an electronic communication service is
9 provided, or

10 (b) Intentionally exceeds an authorization to access such
11 facility,

12
13 and thereby obtains, alters, or prevents authorized access to a
14 wire or electronic communication while it is in electronic
15 storage in such system shall be punished as provided in
16 subsection (2).

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17 (2) The punishment for an offense under subsection (1) is
18 as follows:

19 (a) If the offense is committed for purposes of commercial
20 advantage, malicious destruction or damage, or private
21 commercial gain, the person ~~is~~:

22 1. In the case of a first offense under this subsection,
23 commits guilty of a misdemeanor of the first degree, punishable
24 as provided in s. 775.082, s. 775.083, or s. 934.41.

25 2. In the case of any subsequent offense under this
26 subsection, commits guilty of a felony of the third degree,
27 punishable as provided in s. 775.082, s. 775.083, s. 775.084, or
28 s. 934.41.

29 (b) In any other case, the person commits ~~is guilty of~~ a
30 misdemeanor of the second degree, punishable as provided in s.
31 775.082 or s. 775.083.

32 (3) Subsection (1) does not apply with respect to conduct
33 authorized:

34 (a) By the person or entity providing a wire, oral, or
35 electronic communications service, including through cellular
36 phones, portable electronic communication devices, or
37 microphone-enabled household devices;

38 (b) By a user of a wire, oral, or electronic
39 communications service, including through cellular phones,
40 portable electronic communication devices, or microphone-enabled

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41 household devices, with respect to a communication of or
42 intended for that user; ~~or~~

43 (c) In s. 934.09, s. 934.23, or s. 934.24;

44 (d) In chapter 933; or

45 (e) For accessing for a legitimate business purpose
46 information that is not personally identifiable or that has been
47 collected in a way that prevents identification of the user of
48 the device.

49 Section 4. Section 934.42, Florida Statutes, is amended to
50 read:

51 934.42 Mobile tracking device and location tracking
52 authorization.—

53 (1) An investigative or law enforcement officer may make
54 application to a judge of competent jurisdiction for a warrant
55 ~~an order~~ authorizing or approving the installation and use of a
56 mobile tracking device.

57 (2) An application under subsection (1) ~~of this section~~
58 must include:

59 (a) A statement of the identity of the applicant and the
60 identity of the law enforcement agency conducting the
61 investigation.

62 (b) A statement setting forth a reasonable period of time
63 that the tracking device may be used or the location data may be
64 obtained in real-time, not to exceed 45 days from the date the
65 warrant is issued. The court may, for good cause, grant one or

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66 more extensions for a reasonable period of time, not to exceed
67 45 days each ~~certification by the applicant that the information~~
68 ~~likely to be obtained is relevant to an ongoing criminal~~
69 ~~investigation being conducted by the investigating agency.~~

70 (c) A statement of the offense to which the information
71 likely to be obtained relates.

72 (d) A statement as to whether it may be necessary to use
73 and monitor the mobile tracking device outside the jurisdiction
74 of the court from which authorization is being sought.

75 (3) Upon application made as provided under subsection
76 (2), the court, if it finds probable cause, ~~that the~~
77 ~~certification~~ and finds that the statements required by
78 subsection (2) have been made in the application, shall grant a
79 warrant ~~enter an~~ ex parte ~~order~~ authorizing the installation and
80 use of a mobile tracking device. Such warrant ~~order~~ may
81 authorize the use of the device within the jurisdiction of the
82 court and outside that jurisdiction but within the State of
83 Florida if the device is installed within the jurisdiction of
84 the court. The warrant must command the officer to complete any
85 installation authorized by the warrant within a specified period
86 of time not to exceed 10 calendar days.

87 (4) A court may not require greater specificity or
88 additional information beyond that which is required by law and
89 this section as a requisite for issuing a warrant ~~an order~~.

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90 (5) Within 10 days after the time period specified in
91 paragraph (2)(b) has ended, the officer executing a warrant must
92 return the warrant to the issuing judge. When the warrant is
93 authorizing historical global positioning satellite location
94 data, the officer executing the warrant must return the warrant
95 to the issuing judge within 10 days after receipt of the
96 records. The officer may do so by reliable electronic means.

97 (6) Within 10 days after the time period specified in
98 paragraph (2)(b) has ended, the officer executing a warrant must
99 serve a copy of the warrant on the person who, or whose
100 property, was tracked. Service may be accomplished by delivering
101 a copy to the person who, or whose property, was tracked or by
102 leaving a copy at the person's residence or usual place of abode
103 with an individual of suitable age and discretion who resides at
104 that location and by mailing a copy to the person's last known
105 address. Upon a showing of good cause to a court of competent
106 jurisdiction, the court may grant one or more postponements of
107 this notice for a period of 90 days each.

108 (7)~~(5)~~ The standards established by Florida courts and the
109 United States Supreme Court for the installation, use, or ~~and~~
110 monitoring of mobile tracking devices shall apply to the
111 installation, use, or monitoring ~~and use~~ of any device as
112 authorized by this section.

113 (8)~~(6)~~ As used in this section, the term "mobile tracking
114 device" or a "tracking device" means an electronic or mechanical

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115 | device that allows ~~which permits~~ the tracking of the movement of
116 | a person or object, including a cellular phone or a portable
117 | electronic communication device, and may be used to obtain real-
118 | time cellular-site location data, precise global positioning
119 | satellite location data, or historical global positioning
120 | satellite location data.

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T I T L E A M E N D M E N T

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Remove lines 9-10 and insert:

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the act; prohibiting unlawful access to communications

126

stored in specified devices; providing penalties;