

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	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

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Toledo offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 206-317 and insert:

7 934.42 Real-time location tracking ~~Mobile tracking device~~
 8 authorization.-

9 (1) As used in this section, the term:

10 (a) "Mobile tracking device" means an electronic or
 11 mechanical device that permits the tracking of the movement of a
 12 person or an object.

13 (b) "Real-time location tracking" means:

14 1. Installation and use of a mobile tracking device on the
 15 object to be tracked;

16 2. Acquisition of real-time cell-site location data; or

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17 3. Acquisition of real-time precise global positioning
18 system location data.

19 ~~(2)-(1)~~ An investigative or law enforcement officer may
20 make application to a judge of competent jurisdiction for a
21 warrant ~~an order~~ authorizing or approving real-time location
22 tracking ~~the installation and use of a mobile tracking device.~~

23 ~~(3)-(2)~~ An application under subsection (2) ~~(1)~~ of this
24 ~~section~~ must include:

25 (a) A statement of the identity of the applicant and the
26 identity of the law enforcement agency conducting the
27 investigation.

28 (b) A statement setting forth a reasonable period of time
29 that the mobile tracking device may be used or the location data
30 may be obtained in real time, not to exceed 45 days from the
31 date the warrant is issued. The court may, for good cause, grant
32 one or more extensions for a reasonable period of time, not to
33 exceed 45 days each ~~certification by the applicant that the~~
34 ~~information likely to be obtained is relevant to an ongoing~~
35 ~~criminal investigation being conducted by the investigating~~
36 ~~agency.~~

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

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

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42 ~~(4)-(3)~~ Upon application made as provided under subsection
43 ~~(3) (2)~~, the court, if it finds probable cause ~~that the~~
44 ~~certification~~ and finds that the statements required by
45 subsection ~~(3) (2)~~ have been made in the application, must grant
46 a warrant ~~shall enter an ex parte order~~ authorizing real-time
47 location tracking ~~the installation and use of a mobile tracking~~
48 ~~device~~. Such warrant ~~order~~ may authorize the use of the mobile
49 tracking device within the jurisdiction of the court and outside
50 that jurisdiction but within the State of Florida if the mobile
51 tracking device is installed within the jurisdiction of the
52 court. The warrant must command the officer to complete any
53 installation authorized by the warrant within a specified period
54 of time not to exceed 10 calendar days.

55 ~~(5)-(4)~~ A court may not require greater specificity or
56 additional information beyond that which is required by law and
57 this section as a requisite for issuing a warrant ~~an order~~.

58 (6) Within 10 days after the time period specified in
59 paragraph (3) (b) has ended, the officer executing a warrant must
60 return the warrant to the issuing judge. The officer may do so
61 by reliable electronic means.

62 (7) Within 10 days after the time period specified in
63 paragraph (3) (b) has ended, the officer executing a warrant must
64 serve a copy of the warrant on the person who, or whose
65 property, was tracked in real-time. Service may be accomplished
66 by delivering a copy to the person who, or whose property, was

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67 tracked or data obtained or by leaving a copy at the person's
68 residence or usual place of abode with an individual of suitable
69 age and discretion who resides at that location and by mailing a
70 copy to the person's last known address. Upon a showing of good
71 cause to a court of competent jurisdiction, the court may grant
72 one or more postponements of this notice for a period of 90 days
73 each.

74 (8)(5) The standards established by Florida courts and the
75 United States Supreme Court for the installation, use, or and
76 monitoring of mobile tracking devices and the acquisition of
77 location data shall apply to the installation, use, or
78 monitoring and use of any device and the acquisition of location
79 data as authorized by this section.

80 ~~(6) As used in this section, a "tracking device" means an~~
81 ~~electronic or mechanical device which permits the tracking of~~
82 ~~the movement of a person or object.~~

83 (9) (a) Notwithstanding any other provision of this
84 chapter, any investigative or law enforcement officer specially
85 designated by the Governor, the Attorney General, the statewide
86 prosecutor, or a state attorney acting pursuant to this chapter
87 who reasonably determines that:

88 1. An emergency exists which:

89 a. Involves immediate danger of death or serious physical
90 injury to any person or the danger of escape of a prisoner; and

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91 b. Requires real-time location tracking before a warrant
92 authorizing such tracking can, with due diligence, be obtained;
93 and

94 2. There are grounds upon which a warrant could be issued
95 under this chapter to authorize such tracking, may engage in
96 real-time location tracking if, within 48 hours after the
97 tracking has occurred or begins to occur, a warrant approving
98 the tracking is issued in accordance with this section.

99 (b) In the absence of an authorizing warrant, such
100 tracking must immediately terminate when the information sought
101 is obtained, when the application for the warrant is denied, or
102 when 48 hours have lapsed since the tracking began, whichever is
103 earlier.

104 Section 5. Section 934.44, Florida Statutes, is created to
105 read:

106 934.44 Historical location data acquisition.—

107 (1) As used in this section, "historical location data"
108 means:

109 (a) Historical cell-site location data in the possession
110 of a provider.

111 (b) Historical precise global positioning system location
112 data in the possession of a provider.

113 (2) An investigative or law enforcement officer may make
114 application to a judge of competent jurisdiction for a warrant

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115 authorizing or approving the acquisition of historical location
116 data. Such application must include:

117 (a) A statement of the identity of the applicant and the
118 identity of the law enforcement agency conducting the
119 investigation.

120 (b) A specific date range for the data sought.

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

123 (3) Upon application made as provided under subsection
124 (2), the court, if it finds probable cause and finds that the
125 statements required by subsection (2) have been made in the
126 application, must grant a warrant authorizing the acquisition of
127 historical location data.

128 (4) A court may not require greater specificity or
129 additional information beyond that which is required by law and
130 this section as a requisite for issuing a warrant.

131 (5) The officer executing the warrant for acquisition of
132 historical location data must:

133 (a) Return the warrant to the issuing judge within 10 days
134 after receipt of the records. The officer may do so by reliable
135 electronic means; and

136 (b) Serve a copy of the warrant on the person whose data
137 was obtained within 10 days after receipt of the records.

138 Service may be accomplished by delivering a copy to the person
139 whose data was obtained or by leaving a copy at the person's

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140 residence or usual place of abode with an individual of suitable
141 age and discretion who resides at that location and by mailing a
142 copy to the person's last known address. Upon a showing of good
143 cause to a court of competent jurisdiction, the court may grant
144 one or more postponements of this notice for a period of 90 days
145 each.

146 (6) The standards established by Florida courts and the
147 United States Supreme Court for the acquisition of historical
148 location data shall apply to such acquisition as authorized by
149 this section.

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

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Remove lines 13-55 and insert:

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device" and "real-time location tracking"; authorizing an

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investigative or law enforcement officer to apply to a judge of

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competent jurisdiction for a warrant, rather than an order,

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authorizing real-time location tracking; requiring an

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application for a warrant to include a statement of a reasonable

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period of time that the mobile tracking device may be used or

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the location data may be obtained in real time, not to exceed a

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specified limit; authorizing a court to grant extensions that do

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not individually exceed a specified limit, for good cause;

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deleting a provision requiring a certification to be included in

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the application; providing that the court, if it finds probable

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165 cause and finds the required statements in the application, must
166 grant a warrant; specifying the warrant may authorize real-time
167 location tracking; providing the warrant may authorize the use
168 of the mobile tracking device as specified; requiring the
169 warrant to command the officer to complete any installation
170 authorized by the warrant within a certain timeframe; providing
171 requirements for the return of the warrant to the judge and
172 service of a copy of the warrant on the person who was tracked
173 or whose property was tracked; authorizing a court, for good
174 cause, to postpone the notice requirement for a specified time
175 period; requiring that the standards established by Florida
176 courts for the installation, use, or monitoring of mobile
177 tracking devices and the acquisition of location data apply to
178 the installation, use, or monitoring of any devices and the
179 acquisition of location data as authorized; deleting the
180 definition of "tracking device"; authorizing any investigative
181 or law enforcement officer who is specially designated by
182 certain persons and who makes specified determinations to engage
183 in real-time location tracking if a warrant is later obtained as
184 specified; providing requirements for engaging in real-time
185 location tracking; specifying when real-time location tracking
186 must terminate; creating s. 943.44, F.S.; defining the term
187 "historical location data"; providing that the court, if it
188 finds probable cause and finds the required statements in the
189 application, must grant a warrant for acquisition of historical

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Bill No. HB 1405 (2019)

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190 location data; specifying that a warrant may authorize
191 acquisition of historical location data; providing requirements
192 for the return of the warrant on the person whose data was
193 obtained; specifying how a warrant authorizing the acquisition
194 of historical location data must be returned and served;
195 authorizing a court, for good cause, to postpone the notice
196 requirement for a specified time period; requiring that the
197 standards established by Florida courts and the United States
198 Supreme Court for the acquisition of historical location data
199 apply to such acquisition as authorized;