

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **3517**

- 02/19/2020 Authored by Lesch
The bill was read for the first time and referred to the Judiciary Finance and Civil Law Division
- 03/11/2020 Adoption of Report: Placed on the General Register
Read for the Second Time
- 05/07/2020 Referred to the Chief Clerk for Comparison with S. F. No. 3357
- 05/09/2020 Postponed Indefinitely

1.1 A bill for an act

1.2 relating to public safety; expanding the scope of location tracking warrants;

1.3 amending Minnesota Statutes 2018, section 626A.42, subdivisions 1, 2, 3, 5.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2018, section 626A.42, subdivision 1, is amended to read:

1.6 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

1.7 (b) "Electronic communication service" has the meaning given in section 626A.01,

1.8 subdivision 17.

1.9 (c) "Electronic device" means a device that enables access to or use of an electronic

1.10 communication service, remote computing service, or location information service.

1.11 (d) "Government entity" means a state or local agency, including but not limited to a

1.12 law enforcement entity or any other investigative entity, agency, department, division,

1.13 bureau, board, or commission or an individual acting or purporting to act for or on behalf

1.14 of a state or local agency.

1.15 (e) "Location information" means information concerning the location of an electronic

1.16 device or unique identifier that, in whole or in part, is generated or derived from or obtained

1.17 by the operation of an electronic device or unique identifier.

1.18 (f) "Location information service" means the provision of a global positioning service

1.19 or other mapping, locational, or directional information service.

1.20 (g) "Remote computing service" has the meaning given in section 626A.34.

2.1 (h) "Tracking warrant" means an order in writing, in the name of the state, signed by a
2.2 court other than a court exercising probate jurisdiction, directed to a peace officer, granting
2.3 the officer access to location information of an electronic device or unique identifier.

2.4 (i) "Unique identifier" means any numeric or alphanumeric string that is associated with
2.5 a single entity or account within a given electronic communication application or service.

2.6 Sec. 2. Minnesota Statutes 2018, section 626A.42, subdivision 2, is amended to read:

2.7 Subd. 2. **Tracking warrant required for location information.** (a) Except as provided
2.8 in paragraph (b), a government entity may not obtain the location information of an electronic
2.9 device or unique identifier without a tracking warrant. A warrant granting access to location
2.10 information must be issued only if the government entity shows that there is probable cause
2.11 the person who possesses an electronic device or is using a unique identifier is committing,
2.12 has committed, or is about to commit a crime. An application for a warrant must be made
2.13 in writing and include:

2.14 (1) the identity of the government entity's peace officer making the application, and the
2.15 officer authorizing the application; and

2.16 (2) a full and complete statement of the facts and circumstances relied on by the applicant
2.17 to justify the applicant's belief that a warrant should be issued, including (i) details as to the
2.18 particular offense that has been, is being, or is about to be committed, and (ii) the identity
2.19 of the person, if known, committing the offense whose location information is to be obtained.

2.20 (b) A government entity may obtain location information without a tracking warrant:

2.21 (1) when the electronic device is reported lost or stolen by the owner;

2.22 (2) in order to respond to the user's call or request for emergency services;

2.23 (3) with the informed, affirmative, documented consent of the owner or user of the
2.24 electronic device or unique identifier;

2.25 (4) with the informed, affirmative consent of the legal guardian or next of kin of the
2.26 owner or user if the owner or user is believed to be deceased or reported missing and unable
2.27 to be contacted; or

2.28 (5) in an emergency situation that involves the risk of death or serious physical harm to
2.29 a person who possesses an electronic communications device pursuant to sections 237.82
2.30 and 237.83 or is using a unique identifier.

3.1 Sec. 3. Minnesota Statutes 2018, section 626A.42, subdivision 3, is amended to read:

3.2 Subd. 3. **Time period and extensions.** (a) A tracking warrant issued under this section
3.3 must authorize the collection of location information for a period not to exceed 60 days, or
3.4 the period of time necessary to achieve the objective of the authorization, whichever is less.

3.5 (b) Extensions of a tracking warrant may be granted, but only upon an application for
3.6 an order and upon the judicial finding required by subdivision 2, paragraph (a). The period
3.7 of extension must be for a period not to exceed 60 days, or the period of time necessary to
3.8 achieve the objective for which it is granted, whichever is less.

3.9 (c) Paragraphs (a) and (b) apply only to tracking warrants issued for the contemporaneous
3.10 collection of electronic device or unique identifier location information.

3.11 Sec. 4. Minnesota Statutes 2018, section 626A.42, subdivision 5, is amended to read:

3.12 Subd. 5. **Report concerning collection of location information.** (a) At the same time
3.13 as notice is provided under subdivision 4, the issuing or denying judge shall report to the
3.14 state court administrator:

3.15 (1) the fact that a tracking warrant or extension was applied for;

3.16 (2) the fact that the warrant or extension was granted as applied for, was modified, or
3.17 was denied;

3.18 (3) the period of collection authorized by the warrant, and the number and duration of
3.19 any extensions of the warrant;

3.20 (4) the offense specified in the warrant or application, or extension of a warrant;

3.21 (5) whether the collection required contemporaneous monitoring of an electronic device's
3.22 or unique identifier's location; and

3.23 (6) the identity of the applying investigative or peace officer and agency making the
3.24 application and the person authorizing the application.

3.25 (b) On or before November 15 of each even-numbered year, the state court administrator
3.26 shall transmit to the legislature a report concerning: (1) all tracking warrants authorizing
3.27 the collection of location information during the two previous calendar years; and (2) all
3.28 applications that were denied during the two previous calendar years. Each report shall
3.29 include a summary and analysis of the data required to be filed under this subdivision. The
3.30 report is public and must be available for public inspection at the Legislative Reference
3.31 Library and the state court administrator's office and website.