AN ACT to amend the criminal procedure law, in relation to prohibiting the search, with or without a warrant, of geolocation data of a group of people who are under no individual suspicion of having committed a crime, but rather are defined by having been at a given location at a given time

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "reverse location search prohibition act".

§ 2. The criminal procedure law is amended by adding a new article 695 to read as follows:

ARTICLE 695
REVERSE LOCATION SEARCHES

§ 695.00 Definitions. As used in this article, the following terms shall have the following meanings:

1. "Reverse location court order" means any court order, including a search warrant, compelling the disclosure of records or information pertaining to electronic devices or their users or owners, whose scope extends to an unknown number of electronic devices present in a given geographic area at a given time as measured via global positioning system coordinates, cell tower connectivity, and/or any other form of location detection.

2. "Voluntary reverse location request" means any request in the absence of a court order by a law enforcement officer for records or information pertaining to electronic devices or their users or owners, whose scope extends to an unknown number of electronic devices present.
in a given geographic area at a given time, whether such device location
is measured via global positioning system coordinates, cell tower
connectivity, or any other form of location detection.

3. "Law enforcement officer" means any police officer, peace officer,
or prosecutor.

§ 695.10 Issuance of reverse location court orders.
No court shall issue a reverse location court order.

§ 695.20 Execution of reverse location searches.

1. No law enforcement officer shall seek, from any court, a reverse
location court order.
2. No law enforcement officer shall make a voluntary reverse location
request.

§ 695.30 Reverse location searches; suppression of evidence.
1. Upon motion from a defendant, a court shall order that evidence be
suppressed or excluded if the court finds that such evidence:
   (a) consists of a record acquired via a reverse location court order
or voluntary reverse location request; or
   (b) was obtained as a result of other evidence obtained under a
reverse location court order or voluntary reverse location request.
2. This section shall apply regardless of the court which issued the
order and regardless of whether the issuance of the order was permissi-
able under the procedures of that court.

§ 695.40 Reverse location searches; private right of action.
1. Any individual whose records were obtained by a law enforcement
officer in violation of section 695.20 of this article may institute a
civil action against the employing agency of the law enforcement officer
for any of the following:
   (a) One thousand dollars per violation or actual damages, whichever is
greater.
   (b) Punitive damages.
   (c) Injunctive or declaratory relief.
   (d) Any other relief the court deems proper.
2. In assessing the amount of punitive damages, the court shall
consider:
   (a) The number of people whose information was disclosed.
   (b) The proximity of the search to locations with heightened privacy
concerns, including, but not limited to, houses of worship, political
protests, and medical facilities.
   (c) The persistence of violations by the particular law enforcement
agency and law enforcement officer.

3. In any action brought under this section, the court may award
reasonable attorneys' fees to a prevailing plaintiff.

§ 695.50 Physical searches excluded.
The foregoing limitations shall not apply to the search of any elec-
tronic device lawfully seized pursuant to a search warrant issued under
article six hundred ninety of this title.

§ 3. This act shall take effect immediately.