

STATE OF NEW YORK

10246

IN ASSEMBLY

April 8, 2020

Introduced by M. of A. QUART -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to prohibiting the search of geolocation data of a group of people who are under no individual suspicion of having committed a crime

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

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

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

ARTICLE 695

REVERSE LOCATION SEARCHES

Section 695.00 Definitions.

6 695.10 Issuance of reverse location court orders.

7 695.20 Execution of reverse location searches.

8 695.30 Reverse location searches; suppression of evidence.

9 695.40 Reverse location searches; private right of action.

10 695.50 Physical searches excluded.

11 695.60 Immunity from suspension.

§ 695.00 Definitions.

12 As used in this article, the following terms have the following mean-
13 ings:

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

21 2. "Voluntary reverse location request" means any request in the
22 absence of a court order by a law enforcement officer for records or
23 information pertaining to electronic devices or their users or owners,
24 whose scope extends to an unknown number of electronic devices present
25

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 in a given geographic area at a given time, whether such device location
2 is measured via global positioning system coordinators, cell tower
3 connectivity, or any other form of location detection.

4 3. "Law enforcement officer" means any public servant who is empowered
5 by law to conduct an investigation or to make an arrest, and any attor-
6 ney authorized by law to prosecute or participate in the prosecution of
7 an offense.

8 § 695.10 Issuance of reverse location court orders.

9 No court shall issue a reverse location court order.

10 § 695.20 Execution of reverse location searches.

11 1. No law enforcement officer shall seek, from any court, a reverse
12 location court order.

13 2. No law enforcement officer shall make a voluntary reverse location
14 request.

15 § 695.30 Reverse location searches; suppression of evidence.

16 1. Upon motion from a defendant, a court shall order that evidence be
17 suppressed or excluded if the court finds that such evidence:

18 (a) Consists of a record acquired via a reverse location court order
19 or voluntary reverse location request; or

20 (b) Was obtained as a result of other evidence obtained under a
21 reverse location court order or voluntary reverse location request.

22 2. This section shall apply regardless of the court which issued the
23 order and regardless of whether the issuance of the order was permissi-
24 ble under the procedures of that court.

25 § 695.40 Reverse location searches; private right of action.

26 1. Any individual whose records were obtained by a law enforcement
27 officer in violation of section 695.20 of this article may institute a
28 civil action against the employing agency of the law enforcement officer
29 for any of the following:

30 (a) To recover one thousand dollars per violation or actual damages,
31 whichever is greater.

32 (b) Punitive damages.

33 (c) Injunctive or declaratory relief.

34 (d) Any other relief the court deems proper.

35 2. In assessing the amount of punitive damages, the court shall
36 consider:

37 (a) The number of people whose information was disclosed.

38 (b) The proximity of the search to locations with heightened privacy
39 concerns, including, but not limited to, houses of worship, political
40 protests, and medical facilities.

41 (c) The persistence of violations by the particular law enforcement
42 agency.

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

45 § 695.50 Physical searches excluded.

46 The limitations of this article shall not apply to the search of any
47 electronic device lawfully seized pursuant to a search warrant issued
48 under article six hundred ninety of this title.

49 § 695.60 Immunity from suspension.

50 No provision of this article shall be suspended by the governor under
51 the authority granted in section twenty-nine-a of the executive law.

52 § 3. This act shall take effect immediately.