

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0942.01 Richard Sweetman x4333

HOUSE BILL 13-1308

HOUSE SPONSORSHIP

Kagan and Gardner,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ALLOWING A LAW ENFORCEMENT AGENCY TO ACQUIRE**
102 **CALL LOCATION INFORMATION FROM A TELECOMMUNICATIONS**
103 **DEVICE WITHOUT A COURT ORDER IN AN EMERGENCY**
104 **SITUATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Any supervising representative of a law enforcement agency (requesting authority) may order a previously designated security

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

employee of a communications or internet access provider (employee) to provide to the agency, without requiring the agency to obtain a court order, call location information concerning the telecommunications device of any person if the requesting authority has probable cause to believe that:

- ! An emergency situation exists that involves the risk of death or serious bodily injury to the person or to another person who is in the person's company; and
- ! The time required to obtain a search warrant or other court order authorizing the acquisition of the information would increase such risk.

Not more than 24 hours after a requesting authority orders an employee to provide call location information, the requesting authority must provide to the communications or internet access provider a written statement that:

- ! Identifies the requesting authority and the employee by name and identifies the time and date when the order was issued by the requesting authority;
- ! Asserts that, at the time that the requesting authority ordered the employee to provide the call location information, the requesting authority believed in good faith that he or she had probable cause to believe that an emergency situation existed that involved the risk of death or serious bodily injury and that the time required to obtain a search warrant or other court order authorizing the acquisition of the information would increase such risk; and
- ! Cites certain provisions of current law regarding the civil immunity of a communications or internet access provider, or any of its employees or agents, who relies in good faith on an order by a requesting authority.

A law enforcement agency that acquires such information shall not divulge the information to any person other than to another law enforcement agency, or an employee thereof, unless the law enforcement agency has obtained a court order authorizing the agency to retain the information.

Not more than 24 hours after ordering an employee to provide information, a law enforcement agency shall either:

- ! Obtain a court order stating that the information was lawfully obtained and authorizing the law enforcement agency to retain the information; or
- ! Destroy the information and not retain any copy of the information for any purpose.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-9-312, **add** (1.5)
3 as follows:

4 **18-9-312. Hostage, endangered person, or armed person in**
5 **geographical area - telephone, electronic, cellular, or digital**
6 **communications.** (1.5) (a) NOTWITHSTANDING THE PROVISIONS OF
7 SECTIONS 18-9-302 TO 18-9-311, ANY SUPERVISING REPRESENTATIVE OF
8 A LAW ENFORCEMENT AGENCY MAY ORDER A PREVIOUSLY DESIGNATED
9 SECURITY EMPLOYEE OF A WIRELESS TELECOMMUNICATIONS PROVIDER TO
10 PROVIDE TO THE LAW ENFORCEMENT AGENCY, WITHOUT REQUIRING THE
11 AGENCY TO OBTAIN A COURT ORDER, [REDACTED] LOCATION INFORMATION
12 CONCERNING THE TELECOMMUNICATIONS DEVICE OF A NAMED PERSON IF
13 THE SUPERVISING REPRESENTATIVE HAS PROBABLE CAUSE TO BELIEVE
14 THAT:

15 (I) AN EMERGENCY SITUATION EXISTS THAT INVOLVES THE RISK OF
16 DEATH OR SERIOUS BODILY INJURY TO THE NAMED PERSON OR TO
17 ANOTHER PERSON WHO IS IN THE NAMED PERSON'S COMPANY; AND

18 (II) THE TIME REQUIRED TO OBTAIN A SEARCH WARRANT OR OTHER
19 COURT ORDER AUTHORIZING THE ACQUISITION OF THE INFORMATION
20 WOULD INCREASE SUCH RISK.

21 (b) (I) NOT MORE THAN TWENTY-FOUR HOURS AFTER A
22 SUPERVISING REPRESENTATIVE OF A LAW ENFORCEMENT AGENCY ORDERS
23 A PREVIOUSLY DESIGNATED SECURITY EMPLOYEE OF A WIRELESS
24 TELECOMMUNICATIONS [REDACTED] PROVIDER TO PROVIDE CALL LOCATION
25 INFORMATION AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5),
26 THE SUPERVISING REPRESENTATIVE SHALL PROVIDE TO THE
27 COMMUNICATIONS OR INTERNET ACCESS PROVIDER A WRITTEN STATEMENT

1 THAT:

2 (A) IDENTIFIES THE SUPERVISING REPRESENTATIVE OF THE LAW
3 ENFORCEMENT AGENCY AND THE PREVIOUSLY DESIGNATED SECURITY
4 EMPLOYEE BY NAME AND IDENTIFIES THE TIME AND DATE WHEN THE
5 ORDER WAS ISSUED BY THE SUPERVISING REPRESENTATIVE OF THE LAW
6 ENFORCEMENT AGENCY; AND

7 (B) ASSERTS THAT, AT THE TIME THAT THE SUPERVISING
8 REPRESENTATIVE ORDERED THE DESIGNATED SECURITY EMPLOYEE TO
9 PROVIDE THE [REDACTED] LOCATION INFORMATION, THE SUPERVISING
10 REPRESENTATIVE ASSERTED THAT HE OR SHE HAD PROBABLE CAUSE TO
11 BELIEVE THAT AN EMERGENCY SITUATION EXISTED THAT INVOLVED THE
12 RISK OF DEATH OR SERIOUS BODILY INJURY AND THAT THE TIME REQUIRED
13 TO OBTAIN A SEARCH WARRANT OR OTHER COURT ORDER AUTHORIZING
14 THE ACQUISITION OF THE INFORMATION WOULD INCREASE SUCH RISK.

15 (II) THE WIRELESS TELECOMMUNICATIONS PROVIDER SHALL
16 RETAIN A RECORD OF THE STATEMENT IN ACCORDANCE WITH THE
17 PROVIDER'S PROTOCOLS FOR DOCUMENT RETENTION RELATING TO THIS
18 SUBSECTION (1.5).

19 (c) A WIRELESS TELECOMMUNICATIONS PROVIDER MAY ESTABLISH
20 PROTOCOLS BY WHICH THE PROVIDER DISCLOSES LOCATION INFORMATION,
21 PROVIDED THAT SUCH PROTOCOLS INCLUDE KEEPING A RECORD OF:

22 (I) THE NAME OF THE SUPERVISING REPRESENTATIVE OF A LAW
23 ENFORCEMENT AGENCY THAT REQUESTED THE LOCATION INFORMATION;
24 AND

25 (II) THE TIME AND DATE WHEN THE REQUEST WAS MADE.

26 (d) WITH REGARD TO COMPLIANCE WITH THE REQUIREMENTS OF
27 THIS SUBSECTION (1.5), NO CAUSE OF ACTION MAY BE BROUGHT AGAINST

1 ANY WIRELESS TELECOMMUNICATIONS PROVIDER, ITS OFFICERS,
2 EMPLOYEES, AGENTS, OR OTHER SPECIFIED PERSONS FOR PROVIDING
3 LOCATION INFORMATION IN RESPONSE TO A REQUEST FROM A LAW
4 ENFORCEMENT AGENT WITH ACTUAL OR APPARENT AUTHORITY TO ACT AS
5 A SUPERVISING REPRESENTATIVE UNDER THIS SUBSECTION (1.5).

6 (e) A LAW ENFORCEMENT AGENCY THAT ACQUIRES INFORMATION
7 PURSUANT TO THIS SUBSECTION (1.5) SHALL NOT DIVULGE THE ACQUIRED
8 INFORMATION TO ANY PERSON OTHER THAN TO ANOTHER LAW
9 ENFORCEMENT AGENCY, OR AN EMPLOYEE THEREOF, UNLESS THE LAW
10 ENFORCEMENT AGENCY HAS OBTAINED A COURT ORDER STATING THAT
11 THE INFORMATION WAS LAWFULLY OBTAINED AND AUTHORIZING THE LAW
12 ENFORCEMENT AGENCY TO RETAIN THE INFORMATION, AS DESCRIBED IN
13 SUBPARAGRAPH (I) OF PARAGRAPH (d) OF THIS SUBSECTION (1.5).

14 (f) (I) NOT MORE THAN FORTY-EIGHT HOURS AFTER ORDERING A
15 PREVIOUSLY DESIGNATED SECURITY EMPLOYEE OF A WIRELESS
16 TELECOMMUNICATIONS PROVIDER TO PROVIDE INFORMATION AS
17 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5), A LAW
18 ENFORCEMENT AGENCY SHALL REQUEST A COURT ORDER STATING
19 WHETHER:

20 (A) AT THE TIME THAT THE SUPERVISING REPRESENTATIVE OF A
21 LAW ENFORCEMENT AGENCY ORDERED THE PREVIOUSLY DESIGNATED
22 SECURITY EMPLOYEE OF A WIRELESS TELECOMMUNICATIONS PROVIDER TO
23 PROVIDE THE INFORMATION, THE SUPERVISING REPRESENTATIVE HAD
24 PROBABLE CAUSE TO BELIEVE THAT THE CONDITIONS DESCRIBED IN
25 PARAGRAPH (a) OF THIS SUBSECTION (1.5) EXISTED; AND

26 (B) THE LAW ENFORCEMENT AGENCY MAY RETAIN THE
27 INFORMATION FOR A BONA FIDE INVESTIGATIVE PURPOSE.

1 (II) UNLESS A COURT ORDERS THAT THE LAW ENFORCEMENT
2 AGENCY MAY RETAIN THE INFORMATION FOR A BONA FIDE INVESTIGATIVE
3 PURPOSE, AS DESCRIBED IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I)
4 OF THIS PARAGRAPH (d), THE LAW ENFORCEMENT AGENCY SHALL DESTROY
5 THE INFORMATION AND NOT RETAIN ANY COPY OF THE INFORMATION FOR
6 ANY PURPOSE.

7 (III) IF THE COURT ISSUES AN ORDER STATING THAT THE
8 SUPERVISING REPRESENTATIVE OF THE LAW ENFORCEMENT AGENCY DID
9 NOT HAVE PROBABLE CAUSE TO BELIEVE THAT THE CONDITIONS
10 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) EXISTED AND
11 THAT THE INFORMATION WAS NOT LAWFULLY OBTAINED, THEN NEITHER
12 THE INFORMATION NOR ANY OTHER EVIDENCE THAT IS OBTAINED AS A
13 RESULT OF THE LAW ENFORCEMENT AGENCY'S ACQUISITION OF THE
14 INFORMATION MAY BE ADMITTED IN ANY SUBSEQUENT CRIMINAL
15 PROCEEDING UNLESS THE INFORMATION OR OTHER EVIDENCE WAS ALSO
16 ACQUIRED INDEPENDENTLY IN A LAWFUL MANNER.

17 (IV) ANY RULING BY A COURT THAT THE INFORMATION OBTAINED
18 MAY BE RETAINED FOR A BONA FIDE INVESTIGATIVE PURPOSE SHALL NOT
19 BE CONSIDERED A RULING ON THE ADMISSIBILITY OF THE EVIDENCE IN ANY
20 CRIMINAL PROCEEDING UNDER THE CONSTITUTIONAL AND STATUTORY
21 PROVISIONS OF THE UNITED STATES OR COLORADO.

22 **SECTION 2. Safety clause.** The general assembly hereby finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, and safety.