HB1161/852319/1

BY: House Judiciary Committee

<u>AMENDMENTS TO HOUSE BILL 1161</u>
(First Reading File Bill)

<u>AMENDMENT NO. 1</u>
On page 1, in line 2, strike "Warrant" and substitute "<u>Order</u>"; strike beginning with "prohibiting" in line 3 down through "Act;" in line 5; in line 5, strike "warrant" and substitute "<u>order authorizing and directing a law enforcement officer to obtain certain location information from a certain electronic device</u>"; in lines 6, 7, and 9, in each instance, strike "warrant" and substitute "<u>order</u>"; and in line 8, strike "and admissibility".

<u>AMENDMENT NO. 2</u>
On page 1, after line 24, insert:

"**(2)** **"COURT" MEANS THE DISTRICT COURT OR A CIRCUIT COURT HAVING JURISDICTION OVER THE CRIME BEING INVESTIGATED, REGARDLESS OF THE LOCATION OF THE ELECTRONIC DEVICE FROM WHICH LOCATION INFORMATION IS SOUGHT.**".

<u>AMENDMENT NO. 3</u>
On page 2, in line 1, strike "**(2)**" and substitute "**(3)**"; in line 2, after "**SERVICE,**" insert "**AS DEFINED IN § 10-401 OF THE COURTS ARTICLE, A**"; in line 3, after "**SERVICE,**" insert "**AS DEFINED IN § 10-4A-01(C) OF THE COURTS ARTICLE,**"; in the same line , after "**OR**" insert "**A GEOGRAPHIC**"; after line 3, insert:

"**(4)** **"EXIGENT CIRCUMSTANCES" MEANS AN EMERGENCY OR OTHER JUDICIALLY RECOGNIZED EXCEPTION TO CONSTITUTIONAL WARRANT REQUIREMENTS.**";

(Over)

in line 4, strike "**(3)**" and substitute "**(5)**"; strike beginning with "**PAST**" in line 4 down through "**DEVICE**" in line 7 and substitute "**REAL-TIME OR PRESENT INFORMATION CONCERNING THE GEOGRAPHIC LOCATION OF AN ELECTRONIC DEVICE THAT IS GENERATED BY OR DERIVED FROM THE OPERATION OF THAT DEVICE**"; in lines 8, 11, 13, and 16, strike "**(4)**", "**(5)**", "**(6)**", and "**(7)**", respectively, and substitute "**(6)**", "**(7)**", "**(8)**", and "**(9)**", respectively; in line 16, after "**USES**" insert "**OR POSSESSES**"; strike beginning with "**AN**" in line 18 down through "**COMMITTED**" in line 29 and substitute "**A COURT MAY ISSUE AN ORDER AUTHORIZING OR DIRECTING A LAW ENFORCEMENT OFFICER TO OBTAIN LOCATION INFORMATION FROM AN ELECTRONIC DEVICE AFTER DETERMINING FROM AN APPLICATION DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION THAT THERE IS PROBABLE CAUSE TO BELIEVE THAT:**

> **(I)   A MISDEMEANOR OR FELONY HAS BEEN, IS BEING, OR WILL BE COMMITTED BY THE OWNER OR USER OF THE ELECTRONIC DEVICE OR BY THE INDIVIDUAL ABOUT WHOM LOCATION INFORMATION IS BEING SOUGHT; AND**

> **(II)   THE LOCATION INFORMATION BEING SOUGHT:**

> **1.   IS EVIDENCE OF, OR WILL LEAD TO EVIDENCE OF, THE MISDEMEANOR OR FELONY BEING INVESTIGATED; OR**

> **2.   WILL LEAD TO THE APPREHENSION OF AN INDIVIDUAL FOR WHOM AN ARREST WARRANT HAS BEEN PREVIOUSLY ISSUED**";

in line 30, strike "**(3)**" and substitute "**(2)**"; and in the same line, strike "**A WARRANT**" and substitute "**AN ORDER**".

AMENDMENT NO. 4

On page 3, in line 4, strike "**(2)**" and substitute "**(1)**"; in line 6, strike "**EVIDENCING THAT PROBABLE CAUSE EXISTS**"; in line 7, strike "**(4)**" and substitute "**(3)**"; in the same line, strike "**THE WARRANT**" and substitute "**AN ORDER ISSUED UNDER THIS SECTION**"; strike beginning with the first "**THE**" in line 10 down through "**THE**" in line 11 and substitute "**THE TYPE OF**"; strike line 14 in its entirety and substitute "**KNOWN, OR THE IDENTIFYING NUMBER OF THE ELECTRONIC DEVICE ABOUT WHICH LOCATION INFORMATION IS**"; in line 16, strike "A" and substitute "**KNOWN AND IF THE OWNER IS A**"; in line 21, strike "**WARRANT**" and substitute "**ORDER**"; after line 21, insert:

"**(II) AUTHORIZE THE EXECUTING LAW ENFORCEMENT OFFICER TO OBTAIN THE LOCATION INFORMATION WITHOUT GIVING NOTICE TO THE OWNER OR USER OF THE ELECTRONIC DEVICE OR TO THE INDIVIDUAL ABOUT WHOM THE LOCATION INFORMATION IS BEING SOUGHT FOR THE DURATION OF THE ORDER;**";

in line 22, strike "**(II)**" and substitute "**(III)**"; strike beginning with "**FIRST**" in line 22 down through "**OF**" in line 23 and substitute "**PERIOD OF TIME FOR WHICH**"; in line 23, after "**AUTHORIZED**" insert "**TO BE OBTAINED**"; in line 24, strike "**(III)**" and substitute "**(IV)**"; in line 25, after "**DISCLOSE**" insert "**TO THE EXECUTING LAW ENFORCEMENT OFFICER THE**"; and strike beginning with "**THOSE**" in line 26 down through "**IS**" in line 27 and substitute "**THE PERIOD OF TIME**".

AMENDMENT NO. 5
On page 4, strike beginning with "**A**" in line 4 down through "**ISSUED**" in line 6 and substitute "**THE PERIOD OF TIME DURING WHICH LOCATION INFORMATION MAY BE OBTAINED UNDER THE AUTHORITY OF AN ORDER UNDER SUBSECTION (B) OF THIS SECTION MAY NOT EXCEED 30 DAYS UNLESS EXTENDED AS PROVIDED IN SUBSECTION (C)(3) OF THIS SECTION**"; strike beginning with "**IF**" in line 7 down through "**VOID**" in line 8 and substitute "**LOCATION INFORMATION**

(Over)

SHALL BEGIN TO BE OBTAINED BY THE EXECUTING LAW ENFORCEMENT OFFICER WITHIN 10 CALENDAR DAYS AFTER THE ORDER IS ISSUED OR, IF APPLICABLE, THE ORDER SHALL BE DELIVERED TO THE SERVICE PROVIDER WITHIN 10 CALENDAR DAYS AFTER THE ORDER IS ISSUED"; strike in their entirety lines 9 through 17, inclusive, and substitute:

"**(2)   IF NEITHER OF THE EVENTS DESCRIBED IN SUBSECTION (C)(1)(II) OF THIS SECTION OCCURS WITHIN 10 CALENDAR DAYS OF THE ISSUANCE OF THE ORDER, THE ORDER IS VOID.**

(3)   (I)   THE AUTHORITY TO OBTAIN LOCATION INFORMATION UNDER THE ORDER MAY BE EXTENDED BEYOND 30 CALENDAR DAYS ON A FINDING OF CONTINUING PROBABLE CAUSE.

(II)   AN EXTENSION UNDER THIS PARAGRAPH MAY NOT EXCEED AN ADDITIONAL 30 CALENDAR DAYS, UNLESS THE COURT FINDS CONTINUING PROBABLE CAUSE AND DETERMINES THAT GOOD CAUSE EXISTS FOR A LONGER EXTENSION.";

in line 18, strike "**WARRANT**" and substitute "**ORDER**"; in line 19, strike "**A**" and substitute "**KNOWN AND IF THE OWNER IS A**"; in line 20, strike "**OWNER**" and substitute "**SUBSCRIBER**"; and strike beginning with "**MUST**" in line 22 down through "**DELAYED**" in line 29 and substitute "**SHALL:**

(I)   STATE THE GENERAL NATURE OF THE LAW ENFORCEMENT INQUIRY; AND

(II)   INFORM THE USER OR OWNER:

      1.   **IF APPLICABLE, THAT LOCATION INFORMATION MAINTAINED BY THE SERVICE PROVIDER WAS SUPPLIED TO A LAW ENFORCEMENT OFFICER;**

      2.   **IF APPLICABLE, THE IDENTIFYING NUMBER ASSOCIATED WITH THE ELECTRONIC DEVICE;**

      3.   **THE DATES FOR WHICH THE LOCATION INFORMATION WAS SUPPLIED;**

      4.   **WHETHER NOTIFICATION WAS DELAYED; AND**

      5.   **WHICH COURT AUTHORIZED THE ORDER**".

AMENDMENT NO. 6

On page 5, in line 1, strike "**THE**"; in line 2, strike "**7**" and substitute "**10**"; strike beginning with "**FIRST**" in line 2 down through "**INFORMATION**" in line 3 and substitute "**THE EXPIRATION OF THE ORDER**"; in line 5, after "**RULES**" insert "**OR THIS SUBTITLE**"; strike beginning with "**NOTIFICATION**" in line 6 down through "**AUTHORIZED**" in line 8 and substitute "**APPLICATION, AFFIDAVIT, AND ORDER BE SEALED AND THAT THE NOTIFICATION REQUIRED UNDER THIS SECTION BE DELAYED FOR A PERIOD OF 30 CALENDAR DAYS**"; in line 11, strike "**SEARCH**" and substitute "**AFFIDAVIT**"; strike beginning with "**GRANT**" in line 23 down through "**DELAYED**" in line 25 and substitute "**ORDER THAT NOTIFICATION UNDER THIS SECTION BE DELAYED BEYOND 30 CALENDAR DAYS**"; in line 26, strike "**THERE IS**" and substitute "**A LAW ENFORCEMENT OFFICER PROVIDES**"; in line 29, strike "**THE**"; in the same line, after "**EVIDENCE**" insert "**THAT NOTICE SHOULD BE FURTHER DELAYED TO PRESERVE THE CONTINUATION OF THE INVESTIGATION**"; in line 30, strike "**(1)**"; in line 31, strike "**WARRANT**" and substitute "**ORDER**"; and in the same line, strike "**ADDITIONAL**".

        (Over)

AMENDMENT NO. 7

On page 6, strike in their entirety lines 1 through 3, inclusive; in line 4, strike "**(1)**"; in line 5, strike "**AN AGENT OF THE STATE OR A POLITICAL SUBDIVISION OF THE STATE**" and substitute "**A LAW ENFORCEMENT OFFICER**"; in line 6, strike "**PRESENT**"; in lines 8 and 10, strike "**(I)**" and "**(II)**", respectively, and substitute "**(1)**" and "**(2)**", respectively; strike beginning with "**ORDER**" in line 8 down through "**SERVICES;**" in line 9 and substitute "**EXIGENT CIRCUMSTANCES; OR**"; strike beginning with "**AND**" in line 10 down through the second "**THE**" in line 11 and substitute "**OR**"; strike beginning with the semicolon in line 12 down through "**DANGER**" in line 19; strike in their entirety lines 20 through 26, inclusive; in line 28, strike "**A WARRANT**" and substitute "**AN ORDER**"; and in line 30, strike "**WARRANT**" and substitute "**ORDER**".

On page 7, in line 5, strike "**WARRANT**" and substitute "**ORDER**".