

FIRST REGULAR SESSION

HOUSE BILL NO. 762

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BAKER.

1193H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 542, RSMo, by adding thereto seven new sections relating to reverse keyword and reverse location searches.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 542, RSMo, is amended by adding thereto seven new sections, to
2 be known as sections 542.600, 542.603, 542.606, 542.609, 542.612, 542.615, and 542.618, to
3 read as follows:

542.600. Sections 542.600 to 542.618 shall be known and may be cited as the
2 **"Reverse Location and Reverse Keyword Search Prohibition Act".**

542.603. As used in section 542.600 to 542.618, the following terms mean:

2 **(1) "Government entity", any department or agency of the state or any political**
3 **subdivision thereof or any individual acting for or on behalf of the state or a political**
4 **subdivision thereof;**

5 **(2) "Law enforcement officer", any police officer, peace officer, or prosecutor;**

6 **(3) "Reverse keyword court order", any court order, including a search**
7 **warrant, compelling the disclosure of records or information identifying any unnamed**
8 **person, by name or other unique identifier, who electronically searched for particular**
9 **words, phrases, character strings, or websites, or who visited a particular website**
10 **through a link generated by such a search, regardless of whether the order is limited to**
11 **a specific geographic area or time frame;**

12 **(4) "Reverse location court order", any court order, including a search warrant,**
13 **compelling the disclosure of records or information pertaining to electronic devices or**
14 **their users or owners, whose scope extends to an unknown number of electronic devices**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 present in a given geographic area at a given time as measured via global positioning
16 system coordinates, cell tower connectivity, wifi data, or any other form of location
17 detection;

18 (5) "Voluntary reverse keyword request", any request in the absence of a court
19 order by any government entity for the provision of records or information identifying
20 any unnamed person, by name or other unique identifier, who electronically searched
21 for particular words, phrases, character strings, or websites, or who visited a particular
22 website through a link generated by such a search, regardless of whether the request is
23 limited to a specific geographic area or time frame;

24 (6) "Voluntary reverse location request", any request in the absence of a court
25 order by any government entity for records or information pertaining to electronic
26 devices or its users or owners, whose scope extends to an unknown number of electronic
27 devices present in a given geographic area at a given time, regardless of whether such
28 device location is measured via global positioning system coordinates, cell tower
29 connectivity, wifi data, or any other form of location detection.

542.606. No court shall issue a reverse location court order or a reverse keyword
2 court order.

542.609. 1. No government entity shall seek from any court a reverse location
2 court order or a reverse keyword court order.

3 2. No government entity shall make a voluntary reverse location request or a
4 voluntary reverse keyword request.

5 3. No government entity shall seek, secure, obtain, borrow, purchase, use, or
6 review any information or data obtained through a voluntary reverse location request
7 or a voluntary reverse keyword request.

8 4. No government entity shall seek the assistance of any nongovernmental entity,
9 any agency of the federal government, or any agency of the government of another state
10 or subdivision thereof in obtaining information or data from a reverse location court
11 order, reverse keyword court order, voluntary reverse location request, or voluntary
12 reverse keyword request if the government entity would be barred from directly seeking
13 such information under sections 542.600 to 542.618.

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

3 (1) Consists of a record acquired via a reverse location court order, reverse
4 keyword court order, voluntary reverse location request, or voluntary reverse keyword
5 request; or

6 **(2) Was obtained as a result of other evidence obtained under a reverse location**
7 **court order, reverse keyword court order, voluntary reverse location request, or**
8 **voluntary reverse keyword request.**

9 **2. This section shall apply regardless of the court that issued the order and**
10 **regardless of whether the issuance of the order was permissible under the procedures of**
11 **that court.**

12 **3. This section shall apply regardless of any claim that the information or**
13 **evidence is attenuated from an unlawful order or request, would inevitably have been**
14 **discovered, or was simultaneously or subsequently obtained or reobtained through**
15 **other means.**

542.615. 1. Any individual whose records were obtained by any government
2 **entity in violation of sections 542.600 to 542.618 may institute a civil action against such**
3 **government entity for any or all of the following:**

4 **(1) One thousand dollars per violation or actual damages, whichever is greater;**

5 **(2) Punitive damages;**

6 **(3) Injunctive or declaratory relief;**

7 **(4) Any other relief the court deems proper.**

8 **2. In assessing the amount of punitive damages, the court shall consider:**

9 **(1) The number of people whose information was disclosed;**

10 **(2) The proximity of the search to locations with heightened privacy concerns**
11 **including, but not limited to, houses of worship, political protests, and medical facilities;**
12 **and**

13 **(3) The persistence of violations by the particular government entity.**

14 **3. In any action brought under this section, the court shall award reasonable**
15 **attorney's fees, expenses, and costs to a prevailing plaintiff.**

542.618. Sections 542.600 to 542.615 shall not apply to the search of any
2 **electronic device lawfully seized or searched under a search warrant issued in**
3 **accordance with this chapter.**

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