

ACT #2016-340

1 HB96
2 173275-2
3 By Representative England
4 RFD: Judiciary
5 First Read: 03-FEB-16



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2 ENROLLED, An Act,

3 Relating to criminal surveillance; to provide that
4 an authorized judge may issue a warrant for the installation,
5 removal, maintenance, use, and monitoring of a tracking
6 device; to provide requirements for the warrant; and to
7 specify procedures for law enforcement officers regarding
8 tracking devices.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. (a) Any circuit or district court judge
11 in this state is authorized to issue a warrant to install a
12 tracking device. The term tracking device means an electronic
13 or mechanical device which permits the tracking of the
14 movement of a person or object.

15 (b) Upon the written application, under oath, of any
16 law enforcement officer as defined in Alabama Rule of Criminal
17 Procedure 1.4, district attorney, or Attorney General of the
18 state, including assistant and deputy district attorneys and
19 assistant and deputy attorneys general, any authorized judge
20 may issue a warrant for the installation, retrieval,
21 maintenance, repair, use, or monitoring of a tracking device.
22 The warrant application shall do all of the following:

23 (1) State facts sufficient to show probable cause
24 that a crime is being, has been, or is about to be committed
25 in the jurisdiction of the issuing judge.

1 (2) Identify the person, if reasonably determinable,
2 or object, or both, that is, was, or will be involved in the
3 commission of the alleged offense.

4 (3) Describe, with particularity, the item or
5 person, or both, to be tracked by use of a tracking device.

6 (c) (1) A warrant for a tracking device shall
7 identify the person, if reasonably determinable, or the object
8 to be tracked, or both, and specify a reasonable length of
9 time that the tracking device may be used, not to exceed 45
10 days from the date that the warrant was issued unless the
11 issuing judge grants one or more extensions for a reasonable
12 time not to exceed 45 days each, based on new, renewed, or
13 ongoing probable cause.

14 (2) The warrant shall include the authorization for
15 access to and into the object that will be tracked and any
16 building, dwelling, structure, or curtilage in which the
17 object is located for the limited purpose of installing the
18 tracking device or for maintenance, repair, or retrieval of
19 the tracking device. The warrant shall state that the tracking
20 device may be installed, repaired, maintained, or retrieved at
21 any time during the day or night. However, access to and into
22 any building, dwelling, structure, or curtilage in which the
23 object is located shall be limited to the daytime unless the
24 affidavit sets out that the purpose of the tracking device is
25 to investigate a crime involving a controlled substance, an

1 explosive device or material used or to be used in creating an
2 explosive device, or chemical, biological, or nuclear
3 materials used or to be used in creating an explosive device
4 or a weapon of mass destruction, or an emergency situation
5 involving danger to a person, at which point access to and
6 into any building, dwelling, structure, or curtilage in which
7 the object is located may be allowed at any time of the day or
8 night. The time of day for access to and into any building,
9 dwelling, structure, or curtilage shall be set out in the
10 warrant. The device may be monitored at any time of the day or
11 night.

12 (3) The warrant shall command the officer to do all
13 of the following:

14 a. Install the tracking device upon the person or
15 object to be tracked while the person or object is within the
16 jurisdiction of the judge issuing the warrant.

17 b. Complete the installation within 10 days from the
18 date the warrant is issued.

19 c. Require that the law enforcement officer make a
20 written return of the warrant within 10 days after the use of
21 the tracking device has ceased, and the device removed if
22 possible, to the judge issuing the warrant or other authorized
23 judge in the jurisdiction where the warrant was issued if the
24 issuing judge is not available setting out the time period or
25 time periods that surveillance occurred. If the device was not

1 able to be removed, require an explanation as to why the
2 device was not removed.

3 (d) The law enforcement officer executing the
4 warrant shall do all of the following:

5 (1) Enter on the warrant the date and time the
6 device was installed and the period during which it was used.

7 (2) Within 10 days after the use of the tracking
8 device has ended, return the warrant with a copy of the
9 inventory that sets out the time period for which the tracking
10 device was active, a statement that the device was removed, or
11 an explanation as to why the device was not removed, to be
12 listed on the inventory, to the issuing judge or other
13 authorized judge in the jurisdiction where the warrant was
14 issued if the issuing judge is not available, and serve a copy
15 of the warrant on the person who was tracked or whose property
16 was tracked. Service may be accomplished by delivering a copy
17 of the warrant to the person who was tracked or whose property
18 was tracked, leaving a copy at that person's residence or
19 usual place of abode with an individual of suitable age and
20 discretion who resides at that location, or mailing a copy to
21 the person's last known address. Upon request of the state,
22 the judge may delay notice as provided in subsection (f).

23 (e) The law enforcement officers involved in the
24 investigation shall retrieve or cause to be retrieved the
25 tracking device as soon as it is practicable prior to the

1 expiration of the warrant. If retrieval is not practicable,
2 monitoring of the mobile tracking device shall cease on
3 expiration of the warrant.

4 (f) With respect to a warrant issued pursuant to
5 this act, notice to the person who was tracked or whose
6 property was tracked may be delayed upon the request of the
7 applicant if the following applies:

8 (1) The court finds reasonable cause to believe that
9 providing immediate notification of the execution of the
10 warrant may have an adverse result. An adverse result means
11 any of the following:

12 a. Endangerment to the life or physical safety of an
13 individual.

14 b. Flight from prosecution.

15 c. Destruction of or tampering with evidence.

16 d. Intimidation of potential witnesses.

17 e. Any occurrence that would otherwise seriously
18 jeopardize an investigation or unduly delay a trial.

19 (2) The warrant provides that notice shall be given
20 within a reasonable period not to exceed 90 days after the
21 date the warrant was returned to the issuing judge or
22 authorized judge in the jurisdiction where the warrant was
23 issued if the issuing judge is not available. The delay may be
24 extended by the court if the court determines that there is a
25 continuous finding of an adverse result, subject to the

1 condition that an extension shall only be granted upon an
2 updated showing of the need for further delay. Each additional
3 delay shall be limited to a period of 90 days or less, unless
4 the facts of the case justify a longer period, provided,
5 however, that the delayed notification shall be no later than
6 the date of arrest of the individual who was tracked or whose
7 property was tracked if the arrest is based wholly or in part
8 upon the results of the tracking device or other information
9 discovered as part of the investigation in which the tracking
10 device was used.

11 (g) The warrant shall direct that the affidavit,
12 application, warrant, inventory, and return be sealed until
13 notice is given to the person who was tracked or whose
14 property was tracked.

15 (h) If an authorized judge issues a warrant for a
16 tracking device in accordance with this act, the device shall
17 be installed in any county within the jurisdiction of the
18 issuing judge.

19 (i) Upon obtaining a warrant for a tracking device
20 or any other electronic device for which location information
21 may be obtained as authorized by Section 15-5-40, Code of
22 Alabama 1975, the device may be monitored from, or information
23 regarding the device obtained while in, any location within
24 this state regardless of the location of the device itself,

1 even if the device is transported throughout or outside of
2 this state, unless otherwise prohibited by federal law.

3 Section 2. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.



Speaker of the House of Representatives



President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 25-FEB-16.

Jeff Woodard
Clerk

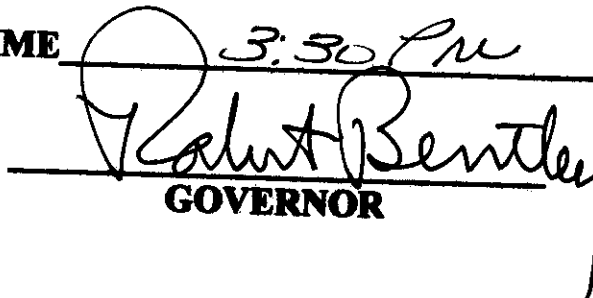
Senate

03-MAY-16

Passed

APPROVED 5-11-2016

TIME 3:50 PM


GOVERNOR

Alabama Secretary Of State

Act Num....: 2016-340
Bill Num....: H-96

Recv'd 05/12/16 09:07amSLF

SPONSOR

England
SPONSORS

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HOUSE ACTION

DATE:

2.3

2016

RD 1 RFD

JUDY

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on

JUDY was

acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be

Passed w/amend(s) w/sub

this 17th day of February, 2016.

Chairperson

DATE:

2.17

2016

RF

RD 2 CAL

DATE:

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RE-REFERRED ☐

RE-COMMITTED ☐

Committee

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill,

HB 96

YEAS 104 NAYS 0

JEFF WOODARD,
Clerk

SENATE ACTION

DATE:

2-25

2016

RD 1 RFD

JUDY

This Bill was referred to the Standing Committee of the Senate on

JUDY

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report

w/amd(s) w/sub w/eng sub

by a vote of

years 8 nays abstain 0

this 16 day of March 2016

Chairperson

DATE:

3-22

2016

RF

FAV

RD 2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill,

HB

YEAS

NAYS

PATRICK HARRIS,
Secretary

DATE:

3-3-16

RD 3 at length

PASSED ☒

PASSED AS AMENDED ☐

YEAS

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NAYS 1

And was ordered returned forthwith to the House.

PATRICK HARRIS,
Secretary

DATE:

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INDEFINITELY POSTPONED

YEAS

NAYS

DATE:

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RECONSIDERED

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