

Oppose H 7451 – Cell Phone Location Tracking

- This legislation would undermine the protections put into place by the General Assembly just two years ago in regard to cell phone location tracking. It allows law enforcement to circumvent those protections, particularly the notification requirements to phone users whose location information has been intercepted, by instead obtaining the information under the outdated trap and trace and wiretapping statutes.
- Specifically, the legislation allows the police to circumvent the notice requirement in the cell phone tracking law (12-23-3). Under current law, the cell phone owner is generally notified *no more than five days* after their location information is obtained, although law enforcement can request to delay that notification by up to 180 days. By contrast, the trap and trace law (12-5.2-3), does not require that the person *ever* be notified of the use of their information, and the wiretap law (12-5.1-9) requires notification only at some point within 90 days after the termination of the court order.
- The Judiciary Committee raised a number of questions at the hearing about these issues, and they were never adequately addressed.
- The Attorney General's office has noted that this legislation is put in "out of an abundance of caution." In that same note of caution, just today the U.S. Supreme Court issued a major ruling in support of privacy rights, specifically in the context of location tracking information – the topic this bill attempts to undermine. The Supreme Court's 144 page ruling needs to be thoroughly examined in order to ensure that this bill does not conflict with it. So even if there weren't already questions about the bill, today's court ruling is sufficient reason to table it until next year to ensure that all issues are addressed appropriately and constitutionally.