

117TH CONGRESS  
1ST SESSION

# H. R. 3707

To prohibit Federal agencies from obtaining geolocation information without a warrant, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2021

Ms. HERRERA BEUTLER (for herself, Mr. CORREA, Ms. SCANLON, and Mrs. SPARTZ) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To prohibit Federal agencies from obtaining geolocation information without a warrant, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No Trace Act of  
5 2021”.

6 **SEC. 2. PROHIBITION ON OBTAINING GEOLOCATION INFOR-**  
7 **MATION.**

8 (a) IN GENERAL.—Notwithstanding any other provi-  
9 sion of law, and not later than one year after the date  
10 of the enactment of this Act, the head of each Federal

1 agency shall implement a policy prohibiting such agency  
2 from obtaining geolocation information of a United States  
3 person prior to obtaining a warrant issued using the pro-  
4 cedures described in the Federal Rules of Criminal Proce-  
5 dure (or, in the case of a State court, issued using State  
6 warrant procedures), issued under section 846 of that  
7 title, in accordance with regulations prescribed by the  
8 President) by a court of competent jurisdiction.

9 (b) LIMITATION ON ELIGIBILITY FOR FUNDS.—Be-  
10 ginning in the first fiscal year that begins after the date  
11 that is one year after the date of enactment of this Act,  
12 a State or unit of local government may not receive funds  
13 under the Byrne grant program or the COPS grant pro-  
14 gram for a fiscal year if, on the day before the first day  
15 of the fiscal year, the State or unit of local government  
16 does not have in effect a policy substantially similar to  
17 the policy described in subsection (a).

18 (c) EXCEPTION FOR THREAT TO LIFE.—

19 (1) IN GENERAL.—Subsections (a) and (b) shall  
20 not apply with respect to a case if the Attorney Gen-  
21 eral or top justice official of a State determines  
22 there is a reasonable belief that such geolocation in-  
23 formation could assist in mitigating or eliminating  
24 an imminent threat to life or serious bodily harm.

1           (2) REQUIREMENT FOR EXCEPTION.—If the At-  
2           torney General or top justice official of a State  
3           makes a determination under paragraph (1), the At-  
4           torney General or top justice official of a State shall  
5           inform a judge of competent jurisdiction that such  
6           a determination has been made as soon as prac-  
7           ticable, but not more than seven days after the At-  
8           torney General or top justice official of a State  
9           makes such determination.

10          (d) EXCEPTION FOR CONDUCTING FOREIGN INTEL-  
11          LIGENCE SURVEILLANCE.—Notwithstanding any other  
12          provision of this Act, it shall not be unlawful for an officer,  
13          employee, or agent of the United States in the normal  
14          course of the official duty of the officer, employee, or agent  
15          to conduct electronic surveillance, as authorized by the  
16          Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.  
17          1801 et seq.).

18          (e) APPLICABILITY.—Subsection (a) shall apply to  
19          any request for a warrant after the date of the enactment  
20          of this Act.

21          (f) GAO STUDY.—Not later than 90 days after the  
22          date of the enactment of this Act, and annually thereafter,  
23          the Comptroller General of the United States shall con-  
24          duct a study on the compliance of each Federal agency

1 and State and local government with the requirements  
2 under subsections (a) and (b).

3 (g) DEFINITIONS.—In this section:

4 (1) BYRNE GRANT PROGRAM.—The term  
5 “Byrne grant program” means the grant program  
6 authorized under section 1701 of title I of the Omni-  
7 bus Crime Control and Safe Streets Act of 1968 (34  
8 U.S.C. 10381).

9 (2) COPS GRANT PROGRAM.—The term “COPS  
10 grant program” means the grant program author-  
11 ized under section 1701 of title I of the Omnibus  
12 Crime Control and Safe Streets Act of 1968 (34  
13 U.S.C. 10381).

14 (3) CONNECTED DEVICE.—The term “con-  
15 nected device” means a device that is capable of con-  
16 necting to the internet, directly or indirectly, or to  
17 another connected device.

18 (4) FEDERAL AGENCY.—The term “Federal  
19 agency” means each instrumentality of the Federal  
20 Government.

21 (5) GEOLOCATION INFORMATION.—The term  
22 “geolocation information” means the process or  
23 technique of identifying the geographical location of  
24 a person or connected device by means of digital in-  
25 formation processed via the internet or obtaining in-

1 formation from a mobile application, connected de-  
2 vice, or other online application to identify or at-  
3 tempt to identify the identity or geographical loca-  
4 tion of an individual, mobile device, or connected de-  
5 vice.

6 (6) MOBILE APPLICATION.—The term “mobile  
7 application” includes—

8 (A) a software program that runs on the  
9 operating system of—

10 (i) a cellular telephone;

11 (ii) a tablet computer; or

12 (iii) a similar portable computing de-  
13 vice that transmits data over a wireless  
14 connection; and

15 (B) a service or application offered via a  
16 connected device.

17 (7) MOBILE DEVICE.—The term “mobile de-  
18 vice” means a piece of portable electronic equipment  
19 that can connect to the internet, including a  
20 smartphone or tablet computer.

21 (8) ONLINE APPLICATION.—The term “online  
22 application” includes—

23 (A) an internet-connected software pro-  
24 gram; or

1           (B) a service or application located on or  
2           utilized by a connected device.

3           (9) STATE.—The term “State” means any  
4           State of the United States, the District of Columbia,  
5           the Commonwealth of Puerto Rico, the Virgin Is-  
6           lands, Guam, American Samoa, the Commonwealth  
7           of the Northern Mariana Islands, and any possession  
8           of the United States.

9           (10) UNITED STATES PERSON.—The term  
10          “United States person” has the meaning given such  
11          term in section 101 of the Foreign Intelligence Sur-  
12          veillance Act of 1978 (50 U.S.C. 1801).

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