

ESSB 5158 - H COMM AMD
By Committee on Public Safety

ADOPTED AS AMENDED 4/14/2015

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 80.36
4 RCW to read as follows:

5 (1) A wireless telecommunications provider must provide
6 information in its possession concerning the current or most recent
7 location of a telecommunications device and call information of a
8 user of the device when requested by a law enforcement agency. A law
9 enforcement agency must meet the following requirements:

10 (a) The law enforcement officer making the request on behalf of
11 the law enforcement agency must be on duty during the course of his
12 or her official duties at the time of the request;

13 (b) The law enforcement agency must verify there is no
14 relationship or conflict of interest between the law enforcement
15 officer responding, investigating or making the request, and either
16 the person requesting the call location information or the person for
17 whom the call location information is being requested;

18 (c) A law enforcement agency may only request this information
19 when, in the law enforcement officer's exercise of reasonable
20 judgment, he or she believes that the individual is in an emergency
21 situation that involves the risk of death or serious physical harm
22 and requires disclosure without a delay of information relating to
23 the emergency;

24 (d) Concurrent to making a request, the responding law
25 enforcement agency must check the federal bureau of investigation's
26 national crime information center and any other available databases
27 to identify if either the person requesting the call location
28 information or the person for whom the call location information is
29 being requested has any history of domestic violence or any court
30 order restricting contact by a respondent;

31 (e) Concurrent to making a request, the responding law
32 enforcement agency must also check with the Washington state patrol
33 to identify if either the person requesting the call location

1 information or the person for whom the call location information is
2 being requested is participating in the address confidentiality
3 program established in chapter 40.24 RCW. The secretary of state must
4 make name information available to the Washington state patrol from
5 the address confidentiality program as required under RCW 40.24.070.
6 The Washington state patrol must not further disseminate list
7 information except on an individual basis to respond to a request
8 under this section;

9 (f) If the responding law enforcement agency identifies or has
10 reason to believe someone has a history of domestic violence or
11 stalking, has a court order restricting contact, or if the Washington
12 state patrol identifies someone as participating in the address
13 confidentiality program, then the law enforcement agency must not
14 provide call location information to the individual who requested the
15 information, unless pursuant to the order of a court of competent
16 jurisdiction. A law enforcement agency may not disclose information
17 obtained under this section to any other party except first
18 responders responding to the emergency situation; and

19 (g) A law enforcement agency may not request information under
20 this section for any purpose other than responding to a call for
21 emergency services or in an emergency situation that involves the
22 risk of death or serious physical harm.

23 (2) A wireless telecommunications provider may establish
24 protocols by which the carrier voluntarily discloses call location
25 information to law enforcement.

26 (3) No cause of action may be brought in any court against any
27 wireless telecommunications provider, its officers, employees,
28 agents, or other specified persons for providing call location
29 information while acting in good faith and in accordance with the
30 provisions of this section.

31 (4) All wireless telecommunications providers registered to do
32 business in the state of Washington and all resellers of wireless
33 telecommunications services shall submit their emergency contact
34 information to the Washington state patrol in order to facilitate
35 requests from a law enforcement agency for call location information
36 in accordance with this section. Any change in contact information
37 must be submitted immediately.

38 (5) The Washington state patrol must maintain a database
39 containing emergency contact information for all wireless
40 telecommunications providers registered to do business in the state

1 of Washington and must make the information immediately available
2 upon request to facilitate a request from law enforcement for call
3 location information under this section.

4 (6) The Washington state patrol may adopt by rule criteria for
5 fulfilling the requirements of this section.

6 **Sec. 2.** RCW 40.24.070 and 2008 c 18 s 5 are each amended to read
7 as follows:

8 The secretary of state may not make any records in a program
9 participant's file available for inspection or copying, other than
10 the address designated by the secretary of state, except under the
11 following circumstances:

12 (1) If requested by a law enforcement agency, to the law
13 enforcement agency; and

14 (a) The participant's application contains no indication that he
15 or she has been a victim of domestic violence, sexual assault, or
16 stalking perpetrated by a law enforcement employee; and

17 (b) The request is in accordance with official law enforcement
18 duties and is in writing on official law enforcement letterhead
19 stationery and signed by the law enforcement agency's chief officer,
20 or his or her designee; or

21 (2) If directed by a court order, to a person identified in the
22 order; and

23 (a) The request is made by a nonlaw enforcement agency; or

24 (b) The participant's file indicates he or she has reason to
25 believe he or she is a victim of domestic violence, sexual assault,
26 or stalking perpetrated by a law enforcement employee.

27 (3) To the Washington state patrol solely for the use authorized
28 in section 1 of this act, provided that participant information must
29 clearly distinguish between those participants requesting disclosure
30 to a law enforcement agency of the location of a telecommunications
31 device and call information of the user, and those participants who
32 request nondisclosure to a law enforcement agency of the location of
33 a telecommunications device and call information of the user. The
34 Washington state patrol may not use the information or make the
35 information available for inspection and copying for any other
36 purpose than authorized in section 1 of this act. The secretary of
37 state may adopt rules to make available the information required for
38 the purposes of this section and section 1 of this act. The secretary
39 of state and the secretary of state's officers, employees, or

1 custodian, are not liable, nor shall a cause of action exist, for any
2 loss or damage based upon the release of information, or the
3 nondisclosure of information, from the address confidentiality
4 program to the Washington state patrol if the agency, officer,
5 employee, or custodian acted in good faith in attempting to comply
6 with the provisions of this section and section 1 of this act.

7 NEW SECTION. **Sec. 3.** This act may be known and cited as the
8 Kelsey Smith act."

9 Correct the title.

EFFECT: Requires that the law enforcement officer making a request for cell phone information be on duty during the course of his/her official duties at the time of the request. Prohibits law enforcement from distributing cell phone information back to the requester or any other party, except to first responders responding to the emergency situation, when it is believed that someone has a history of domestic violence, stalking, is under a court order restricting contact, or is participating in the address confidentiality program. Requires that, prior to requesting a person's call information, a law enforcement agency must verify there is no relationship or conflict of interest between the law enforcement officer responding, investigating or making the request, and either the person requesting the call location information or the person for whom the call location information is being requested. Clarifies that the law enforcement officer must meet all the requirements.

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