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SENATE BILL 6136

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State of Washington

58th Legislature

2004 Regular Session

By Senators McCaslin and Roach

Read first time 01/12/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to authorization of electronic tracking devices for  
2 law enforcement purposes; adding a new section to chapter 10.79 RCW;  
3 and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 10.79 RCW  
6 to read as follows:

7 (1) A law enforcement officer may apply for and the superior court  
8 may issue orders and extensions of orders authorizing the installation  
9 and use of electronic tracking devices, including but not limited to  
10 global positioning satellite devices, as provided in this section. The  
11 application shall be under oath and shall include the identity of the  
12 officer making the application and the identity of the law enforcement  
13 agency conducting the investigation. The applicant must certify that  
14 the information likely to be obtained is relevant to an ongoing  
15 criminal investigation being conducted by that agency.

16 (2) If the court finds that the information likely to be obtained  
17 by such installation and use is relevant to an ongoing criminal  
18 investigation and finds that there is probable cause to believe that  
19 the electronic tracking device will lead to obtaining evidence of a

1 crime, contraband, fruits of crime, things criminally possessed,  
2 weapons, or other things by means of which a crime has been committed  
3 or reasonably appears about to be committed, or will lead to learning  
4 the location of a person who is unlawfully restrained or reasonably  
5 believed to be a witness in a criminal investigation or for whose  
6 arrest there is probable cause, the court shall enter an ex parte order  
7 authorizing the installation and use of an electronic tracking device.  
8 The order shall specify:

9 (a) The identity, if known, of the person who is the subject of the  
10 criminal investigation; and

11 (b) A statement of the offense to which the information likely to  
12 be obtained by the electronic tracking device relates.

13 An order issued under this section shall authorize the installation  
14 and use of an electronic tracking device for a period not to exceed  
15 sixty days. An extension of the original order may only be granted  
16 upon: A new application for an order under subsection (1) of this  
17 section; and a showing that there is a probability that the information  
18 or items sought under this subsection are more likely to be obtained  
19 under the extension than under the original order. The period of  
20 extension shall be for a period not to exceed sixty days. An order  
21 authorizing or approving the installation and use of an electronic  
22 tracking device shall direct that the order be sealed until otherwise  
23 ordered by the court.

24 (3) Notwithstanding any other provision of this chapter, a law  
25 enforcement officer and a prosecuting attorney or deputy prosecuting  
26 attorney who jointly and reasonably determine that there is probable  
27 cause to believe that an emergency situation exists that involves  
28 immediate danger of death or serious bodily injury to any person that  
29 requires the installation and use of an electronic tracking device  
30 before an order authorizing such installation and use can, with due  
31 diligence, be obtained, and there are grounds upon which an order could  
32 be entered under this chapter to authorize such installation and use,  
33 may have installed and used an electronic tracking device if, within  
34 forty-eight hours after the installation has occurred, or begins to  
35 occur, an order approving the installation or use is issued in  
36 accordance with subsection (2) of this section. In the absence of an  
37 authorizing order, such use shall immediately terminate when the  
38 information sought is obtained, when the application for the order is

1 denied, or when forty-eight hours have lapsed since the installation of  
2 the electronic tracking device, whichever is earlier. If an order  
3 approving the installation or use is not obtained within forty-eight  
4 hours, any information obtained is not admissible as evidence in any  
5 legal proceeding. The knowing installation or use by any law  
6 enforcement officer of an electronic tracking device pursuant to this  
7 subsection without application for the authorizing order within forty-  
8 eight hours of the installation shall constitute a violation of this  
9 chapter and be punishable as a gross misdemeanor.

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