

SENATE BILL REPORT

SB 5184

As Passed Senate, March 2, 2009

Title: An act relating to evaluating the need for a digital forensic crime lab.

Brief Description: Evaluating the need for a digital forensic crime lab.

Sponsors: Senators Brandland, Hobbs, McAuliffe, Regala, Stevens, Pflug, Hewitt, King, Swecker and Roach; by request of Attorney General.

Brief History:

Committee Activity: Judiciary: 2/03/09, 2/04/09 [DP].

Passed Senate: 3/02/09, 47-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, Kohl-Welles and Tom.

Staff: Kim Johnson (786-7472)

Background: The Washington State Patrol (WSP) is a general authority law enforcement agency. The WSP Forensic Laboratory provides a wide range of forensic science expertise to city, county, and state law enforcement officers, assisting agencies at crime scenes, preparing evidence for trial, and providing expert testimony. Currently, the WSP hosts the only digital forensics lab in Washington. Digital forensics involves the collection, preservation, and examination of evidence that is stored or transmitted in a binary, or electronic, form. This field includes not only computers, but also digital audio and video.

Virtual digital crime labs consist of the tools and resources required for digital forensic examinations, and are connected via a high-speed network. This type of crime lab enables experts, tools, and evidence to be located in different geographic locations. The virtual lab may be accessed through a single secure portal, over the Internet.

The Washington State Attorney General (AG) convened the Youth Internet Safety Task Force in August 2007 (Task Force). The Task Force is comprised of members from the fields of law enforcement, technology, education, child advocacy groups, and state and local government representatives. One of the recommendations of the Task Force is the creation of

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a virtual digital computer forensics lab to assist in Internet crime investigations, including child pornography investigations.

Summary of Bill: The WSP and AG must convene a work group to study the need for a virtual digital forensic lab. The study must include reviewing and evaluating the costs and effectiveness of state-of-the-art technologies used by digital forensic labs in other states. The work group must also consider advantages and disadvantages of regional and centralized digital forensic labs, and the merits of staffing such labs exclusively with uniformed officers or a mix of law enforcement and civilian personnel.

The work group must seek input from the computer software industry and representatives of existing digital forensic labs to determine how to:

- best centralize forensic analysis of electronic devices and computers;
- expedite the review of digital forensic evidence;
- increase the expertise of forensic examiners;
- allow investigating officers to conduct basic searches for information and images remotely; and
- consolidate the custody of all digital forensic evidence in a central repository so that it may be remotely accessed by law enforcement agencies.

The work group must report on its recommendations to the Legislature by October 30, 2009.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: WSP can give you a tour and show you how they are finding sex offenders on the internet. This is getting to be so prevalent that it is hard to get your head around it. These criminals are becoming very sophisticated and the use of computers to commit crimes and our dependence on technology is only going to continue to rise. Smaller jurisdictions have a difficult time keeping up with the investigative tools necessary to catch criminals that are committing crimes using technology. It is obvious that the state needs to look at this issue.

The reason to do this study now is that there will be a time in the future when you will be ready and able to fund the creation of a lab and now is the time to study this issue. A virtual digital forensics lab is not just relevant to successful prosecution of sex crimes. Almost any criminal investigation today involves the seizure of a cell phone, computer, and/or PDA. This bill stems from a recommendation of a task force comprised of experts in their respective fields. Digital forensics will only continue to grow.

Persons Testifying: PRO: Senator Brandland, prime sponsor; Dan Satterberg, King County Prosecutor; Chris Johnson, Attorney General's Office; Lew McMurrin, Washington Technology Industry Association.