
Technology & Economic Development Committee

HB 1897

Brief Description: Requiring call location information to be provided to law enforcement responding to an emergency.

Sponsors: Representatives McCoy, Ryu and Pollet.

Brief Summary of Bill

- Requires wireless telecommunications providers to provide call location information for the telecommunications device of a user when requested by a law enforcement agency responding to an emergency.

Hearing Date:

Staff: Jasmine Vasavada (786-7301).

Background:

There is more than one method to determine a cell phone user's location. Cell phones include global positions system (GPS) technology, which uses satellites to determine the user's exact location. A less accurate method is the Cell ID method, which uses a carrier's cell network, not satellites, to determine a user's location. Every cell phone on a given network is assigned a unique identification number. When a user's phone is on, that phone will connect to the nearest cell tower to establish a connection (referred to as "registration"). Registrations may occur as frequently as every seven seconds, depending upon the provider and signal strength. The more frequent the registrations, the more accurate the determination of the cell phone's location. Through these and other technologies, law enforcement can obtain the person's location information directly from the service provider.

Federal law prohibits providers of electronic communication services to the public from knowingly divulging records or other information pertaining to a customer of such service,

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except under specific circumstances, such as pursuant to a warrant. Another such circumstance is disclosure to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency. A number of states have enacted laws to regulate the disclosure of cell phone location information. Washington does not have any specific statutes in regard to law enforcement access to a Cell ID or GPS locations based upon cellular phone records.

The Fourth Amendment of the United States Constitution and Article I, Section 7 of the Washington Constitution prohibit the government from conducting a warrantless search, unless an exception applies. Two exceptions from the warrant requirement that the court has recognized are when a party has consented to the search and when disclosure is necessary without waiting for a court order, due to exigent circumstances such as an emergency involving immediate danger of death or serious bodily injury. Although some federal court decisions have held that the government does not need a warrant under the Fourth Amendment to obtain cell phone location data, the analysis under the Washington Constitution may be different. Currently, Washington prosecuting attorneys advise law enforcement to obtain search warrants before requesting cell phone location data from service providers.

Summary of Bill:

Wireless telecommunications providers must provide call location information for the telecommunications device of a user when requested by a law enforcement agency responding to an emergency. Law enforcement agencies may not request this information for any other purpose. No cause of action may be brought in any court against wireless telecommunications providers for providing call location information while acting in good faith and in accordance with this act.

All wireless telecommunications providers registered to do business in Washington and all resellers of wireless telecommunications services must submit emergency contact information to the Washington State Patrol (WSP) by September 30, 2013, update the information annually, and submit new information immediately if there is any change. The WSP is required to maintain a database with emergency contact information for all of the wireless telecommunications providers and make the information immediately available upon a request from law enforcement. The WSP may adopt rules as needed to fulfill the requirements of this act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.