

SSB 5158 - S AMD 29  
By Senator McCoy

ADOPTED 3/3/2015

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) A law enforcement agency may only request this information  
11 when, in the law enforcement officer's exercise of reasonable  
12 judgment, he or she believes that the individual is in an emergency  
13 situation that involves the risk of death or serious physical harm  
14 and requires disclosure without a delay of information relating to  
15 the emergency.

16 (b) Concurrent to making a request, the responding law  
17 enforcement agency must check the federal bureau of investigation's  
18 national crime information center and any other available databases  
19 to identify if either the person requesting the call location  
20 information or the person for whom the call location information is  
21 being requested has any history of domestic violence or any court  
22 order restricting contact by a respondent.

23 (c) Concurrent to making a request, the responding law  
24 enforcement agency must also check with the Washington state patrol  
25 to identify if either the person requesting the call location  
26 information or the person for whom the call location information is  
27 being requested is participating in the address confidentiality  
28 program established in chapter 40.24 RCW. The secretary of state must  
29 make name information available to the Washington state patrol from  
30 the address confidentiality program as required under RCW 40.24.070.  
31 The Washington state patrol must not further disseminate list  
32 information except on an individual basis to respond to a request  
33 under this section.

1 (d) If the responding law enforcement agency identifies or has  
2 reason to believe someone has a history of domestic violence or  
3 stalking, has a court order restricting contact, or if the Washington  
4 state patrol identifies someone as participating in the address  
5 confidentiality program, then the law enforcement agency must not  
6 provide call location information to the individual who requested the  
7 information, unless pursuant to the order of a court of competent  
8 jurisdiction.

9 (e) A law enforcement agency may not request information under  
10 this section for any purpose other than responding to a call for  
11 emergency services or in an emergency situation that involves the  
12 risk of death or serious physical harm.

13 (2) A wireless telecommunications provider may establish  
14 protocols by which the carrier voluntarily discloses call location  
15 information to law enforcement.

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

21 (4) All wireless telecommunications providers registered to do  
22 business in the state of Washington and all resellers of wireless  
23 telecommunications services shall submit their emergency contact  
24 information to the Washington state patrol in order to facilitate  
25 requests from a law enforcement agency for call location information  
26 in accordance with this section. Any change in contact information  
27 must be submitted immediately.

28 (5) The Washington state patrol must maintain a database  
29 containing emergency contact information for all wireless  
30 telecommunications providers registered to do business in the state  
31 of Washington and must make the information immediately available  
32 upon request to facilitate a request from law enforcement for call  
33 location information under this section.

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

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

38 The secretary of state may not make any records in a program  
39 participant's file available for inspection or copying, other than

1 the address designated by the secretary of state, except under the  
2 following circumstances:

3 (1) If requested by a law enforcement agency, to the law  
4 enforcement agency; and

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

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

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

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

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

18 (3) To the Washington state patrol solely for the use authorized  
19 in section 1 of this act, provided that participant information must  
20 clearly distinguish between those participants requesting disclosure  
21 to a law enforcement agency of the location of a telecommunications  
22 device and call information of the user, and those participants who  
23 request nondisclosure to a law enforcement agency of the location of  
24 a telecommunications device and call information of the user. The  
25 Washington state patrol may not use the information or make the  
26 information available for inspection and copying for any other  
27 purpose than authorized in section 1 of this act. The secretary of  
28 state may adopt rules to make available the information required for  
29 the purposes of this section and section 1 of this act. The secretary  
30 of state and the secretary of state's officers, employees, or  
31 custodian, are not liable, nor shall a cause of action exist, for any  
32 loss or damage based upon the release of information, or the  
33 nondisclosure of information, from the address confidentiality  
34 program to the Washington state patrol if the agency, officer,  
35 employee, or custodian acted in good faith in attempting to comply  
36 with the provisions of this section and section 1 of this act.

37 NEW SECTION. Sec. 3. This act may be known and cited as the  
38 Kelsey Smith act."

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1        On page 1, line 2 of the title, after "emergency;" strike the  
2 remainder of the title and insert "amending RCW 40.24.070; adding a  
3 new section to chapter 80.36 RCW; and creating a new section."

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