

SENATE BILL REPORT

SB 5482

As Passed Senate, March 5, 2015

Title: An act relating to the disclosure of global positioning system data by law enforcement officers.

Brief Description: Addressing the disclosure of global positioning system data by law enforcement officers.

Sponsors: Senators Roach and Liias.

Brief History:

Committee Activity: Government Operations & Security: 2/03/15, 2/10/15 [DP].
Passed Senate: 3/05/15, 48-0.

SENATE COMMITTEE ON GOVERNMENT OPERATIONS & SECURITY

Majority Report: Do pass.

Signed by Senators Roach, Chair; Benton, Vice Chair; Pearson, Vice Chair; Liias, Ranking Minority Member; Habib and McCoy.

Staff: Samuel Brown (786-7470)

Background: The Public Records Act (PRA), enacted in 1972 as part of Initiative 276, requires that all state and local government agencies make all public records available for public inspection and copying unless certain statutory exemptions apply.

Every state office, department, division, bureau, board, commission, or other state agency is subject to the PRA. The PRA's definition of local agency covers every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency. Under the PRA, a public record includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency, regardless of physical form or characteristics.

Over 500 specific references in the PRA or other statutes remove certain information from application of the PRA, provide exceptions to the public disclosure and copying of certain information, or designate certain information as confidential. The provisions requiring public

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records disclosure must be interpreted liberally while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

Personal information in files maintained for employees, appointees, or elected officials of any public agency is exempt from public inspection and copying to the extent that disclosure would violate the employee's right to privacy. A court must find two elements to determine that a person's right to privacy is invaded: (1) the disclosure would be highly offensive to a reasonable person; and (2) the disclosure is not of legitimate concern to the public. Numerous court decisions have held that certain information in files maintained for public employees is of legitimate public concern and therefore not exempt from disclosure under the PRA.

Various types of information related to law enforcement and criminal justice are exempt from public disclosure, including the following:

- intelligence and investigative information essential to effective law enforcement or for the protection of a person's privacy;
- information revealing the identities of witnesses, victims, or complainants of crime, if disclosure would endanger their safety;
- investigative reports prepared pertaining to sex offenses;
- applications for concealed pistol licenses;
- information revealing the identity of child victims of sexual assault;
- the statewide gang database;
- data from the electronic sales tracking system for certain pharmaceutical drugs;
- information from recipients of the statewide unified sex offender notification system;
- information relating to local security alarm system and vacation crime watch programs;
- the conviction database of felony firearm offenders;
- the identities of public employee whistleblowers; and
- security threat group status information.

Summary of Bill: Global Positioning System data that indicates the location of the residence of an employee of a criminal justice agency is exempt from public disclosure. A criminal justice agency is a court or any other agency performing and allocating a substantial part of its budget to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

Appropriation: None.

Fiscal Note: Not requested.

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: There was a similar bill introduced last year. This bill gives the agency the discretion to eliminate the coordinates of an officer's residence from disclosure if they're found within the information being disclosed. Some improvement

may be needed so that this is as objective as intended and agencies would know how to determine an employee's residence. Rulemaking could also provide guidance. This bill enables law enforcement agencies to act differently based on the size of their jurisdictions.

Persons Testifying: PRO: Rick Jensen, WA State Patrol Troopers Assn.; Nancy Krier, Office of the Attorney General; Rowland Thompson, Allied Daily Newspapers of WA.