

SENATE BILL REPORT

SSB 5207

As Passed Senate, February 15, 2017

Title: An act relating to the public disclosure of global positioning system data corresponding to residential addresses of public employees and volunteers.

Brief Description: Concerning the public disclosure of global positioning system data corresponding to residential addresses of public employees and volunteers.

Sponsors: Senate Committee on State Government (originally sponsored by Senators Kuderer, Miloscia, Frockt, Zeiger, Hobbs, Keiser, Chase and Hunt; by request of Department of Enterprise Services).

Brief History:

Committee Activity: State Government: 2/01/17, 2/08/17 [DPS].

Floor Activity:

Passed Senate: 2/15/17, 46-0.

Brief Summary of First Substitute Bill

- Exempts Global Positioning System (GPS) data indicating the location of the residence of any public employee or volunteer using the GPS recording device from public disclosure requirements.

SENATE COMMITTEE ON STATE GOVERNMENT

Majority Report: That Substitute Senate Bill No. 5207 be substituted therefor, and the substitute bill do pass.

Signed by Senators Miloscia, Chair; Zeiger, Vice Chair; Hunt, Ranking Minority Member; Kuderer and Pearson.

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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 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 employment and licensing information are exempt from public disclosure requirements, including the following:

- examination data used to administer a license, employment, or academic examination;
- applications for public employment, including names of applicants, resumes, and other related materials submitted with respect to the applicant; and
- the residential addresses, phone numbers, email addresses, social security numbers, and emergency contact information of public agency employees or volunteers.

In 2015, legislation was signed into law exempting Global Positioning System (GPS) data that would indicate the location of the residence of a criminal justice agency employee from public disclosure requirements.

Summary of First Substitute Bill: GPS data that would indicate the location of the residence of any public employee or volunteer using the GPS recording device is exempt from public disclosure requirements.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on First Substitute: PRO: This reconciles law with current technology. GPS data collected by a smart phone, tablet, or GPS-enabled vehicle could leave employees like teachers and social workers vulnerable. In the hands of a bad actor, it would not be difficult to use a last data point to track someone. This is a modest extension of an existing exemption that will preserve the state's commitment to open government. We appreciate the proposed substitute narrowing the language to users of GPS devices - redacting this data involves a specialist and is time-consuming.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Harold Goldes, Department of Enterprise Services; Candice Bock, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: No one.