

# SENATE BILL REPORT

## SB 5869

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As Reported by Senate Committee On:  
Law & Justice, January 27, 2022

**Title:** An act relating to photographs, digital photographs, microphotographs, videotapes, other recorded images, or other records identifying a specific instance of travel from toll systems and traffic safety cameras.

**Brief Description:** Concerning photographs, digital photographs, microphotographs, videotapes, other recorded images, or other records identifying a specific instance of travel from toll systems and traffic safety cameras.

**Sponsors:** Senators Lovick, Dhingra, Keiser, King, Kuderer, Wellman and Wilson, C..

**Brief History:**

**Committee Activity:** Law & Justice: 1/24/22, 1/27/22 [DPS, DNP].

### Brief Summary of First Substitute Bill

- Makes available to law enforcement, pursuant to a lawfully issued search warrant, any photographs, digital photographs, microphotographs, videotapes, other recorded images, or other records identifying a specific instance of travel from toll systems and traffic safety cameras.
- Makes immediately available to law enforcement any photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel prepared by toll systems and traffic safety cameras in the event of a missing and/or endangered person emergency which triggers an Amber Alert or Silver Alert, provided that the request from a law enforcement agency includes supervisory approval from within the law enforcement agency submitting the request and an associated law enforcement agency case number is included in the request.
- Makes available to prosecuting attorneys and defense lawyers

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

photographs, digital photographs, microphotographs, videotapes, other recorded images, or other records identifying a specific instance of travel from toll booths and traffic safety cameras pursuant to a subpoena for producing evidence or permitting inspection in a criminal case in which a court has made a finding of materiality.

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## SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 5869 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Honeyford, Kuderer and Wagoner.

**Minority Report:** Do not pass.

Signed by Senators Padden, Ranking Member; McCune, Assistant Ranking Member; Pedersen and Salomon.

**Staff:** Ryan Giannini (786-7285)

**Background:** Notwithstanding other provisions of law, all photographs, digital photographs, microphotographs, videotapes, other recorded images, and other records identifying a specific instance of travel prepared by a tolling agency for toll collection and enforcement purposes are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty that occurs when a toll is not paid by the toll payment due date. No photographs, digital photographs, microphotographs, videotapes, other recorded images, and other records identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of the civil penalty. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

Notwithstanding other provisions of law, all photographs, microphotographs, or electronic images, or any other personally identifying data prepared by traffic safety cameras are for the exclusive use of law enforcement in issuing a notice of infraction. Such photographs, microphotographs, or electronic images, or any other personally identifying data is not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to an infraction detected by the traffic safety camera. No photograph, microphotograph, or electronic image, or other personally identifying data may be used for any purpose other than enforcement of infractions. Such records may not be retained longer than necessary to enforce such infractions.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (First Substitute):** Pursuant to a lawfully issued search warrant, any photographs, digital photographs, microphotographs, videotapes, other recorded images, or other records identifying a specific instance of travel prepared by toll systems and traffic safety cameras shall be made available to law enforcement. The restrictions that these records be used solely for the purposes of tolls, civil penalties, or infractions will not apply.

Pursuant to a missing and/or endangered person emergency which triggers a statewide Amber Alert or Silver Alert, any photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel prepared under this section shall immediately be made available to law enforcement provided the request from a law enforcement agency includes supervisory approval from within the law enforcement agency submitting the request and an associated law enforcement agency case number is included in the request. The restrictions that these records be used solely for the purposes of tolls, civil penalties, or infractions shall not apply.

Pursuant to a subpoena for producing evidence or permitting inspection in a criminal case in which a court has made a finding of materiality, any photographs, digital photographs, microphotographs, videotapes, other recorded images, or other record identifying a specific instance of travel prepared by toll systems and traffic safety cameras shall be made available to prosecuting attorneys and defense lawyers. The restrictions that these records be used solely for the purposes of tolls, civil penalties, or infractions will not apply.

The act is null and void if funding is not provided in the budget.

**EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):**

- Allows law enforcement immediate access to any photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel prepared by toll systems and traffic safety cameras in the event of a missing and/or endangered person emergency which triggers an Amber Alert or Silver Alert, provided that the request from a law enforcement agency includes supervisory approval from within the law enforcement agency submitting the request and an associated law enforcement agency case number is included in the request.
- Removes restrictions that records prepared by toll systems and traffic safety cameras be used solely for the purposes of tolls, civil penalties, or infractions when law enforcement accesses these records pursuant to a missing and/or endangered person emergency which triggers an Amber Alert or Silver Alert.
- Makes the act null and void if funding is not provided in the budget.

**Appropriation:** None.

**Fiscal Note:** Requested on January 27, 2022.

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

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Proposed Substitute:** *The committee recommended a different version of the bill than what was heard.* PRO: Law enforcement officers may face extreme difficulties in solving crimes due to a lack of compelling evidence. Passage of this bill would aid officers by providing additional evidence. The process outlined in the bill can save law enforcement time. Requiring a search warrant, based on probable cause of a specific crime, ensures that law enforcement officers do their jobs efficiently, safely, and constitutionally.

**Persons Testifying:** PRO: Senator John Lovick, Prime Sponsor; Taylor Gardner, WASPC; Kelly Busey, Gig Harbor Police Department - Chief.

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