



JOEL KITCHENS

STATE REPRESENTATIVE • 1ST ASSEMBLY DISTRICT

Public Testimony
Assembly Committee on Criminal Justice and Public Safety
Assembly Bill 960
January 24, 2023

Thank you, Chairman Spiros and members of the committee for holding this public hearing on Assembly Bill 960.

In 2007, Kelsey Smith, a recent high school graduate, was abducted in broad daylight from a local department store in Kansas. She had been captured on surveillance video being followed by a suspicious person. Four days after her abduction, Kelsey's body was found.

Kelsey had her phone with her when she disappeared, yet during her short disappearance, law enforcement struggled to get her telecommunications service provider to disclose the location of her cell phone, even with a subpoena. Her phone was with her body when she was found.

This bill would require wireless communications providers to turn over the device location information to law enforcement without a warrant:

- If the customer/subscriber consents,
- If the provider believes that there is an emergency involving potential death or serious bodily harm, and
- If the location is relevant to help prevent that, or
- If law enforcement sends a written request to the provider stating that the disclosure of the location information is crucial in helping prevent death or seriously bodily harm in an emergency.

Current law allows providers to provide this information under the previous scenarios. This bill would make it mandatory. It would also provide immunity to service providers from criminal prosecution.

Assembly Bill 960 also requires providers to send their emergency contact information to the Department of Justice on an annual basis to make requests move quickly.

When it comes to missing people or life-threatening situations, every second can make a difference. Kansas was the first state to pass similar legislation following the death of Kelsey Smith. Since then, 29 other states have followed suit. This bill allows our first responders to have the necessary tools to act quickly. It is past time that we make Wisconsin the 31st state to pass the Kelsey Smith Act.

I'm glad to report that both the Badger State Sheriffs' Association and Wisconsin Sheriffs and Deputy Sheriffs Association support this bill.

I want to thank my co-author Senator James. Thank you members for your time and I hope you consider supporting Assembly Bill 889. And a special thanks to my constituent for bringing this bill to my attention.



January 24th, 2024

Representative Spiros, Chair

Members of the Assembly Committee on Criminal Justice and Public Safety

Testimony on 2023 Assembly Bill 960

Relating to: emergency communications device location information.

Thank you, Chairman Spiros and other members of the committee, for hearing my testimony on Assembly Bill 960 today. I would also like to thank Greg and Missey Smith for their dedication, passion, and work over these last few years in getting this legislation to where it is today, as well as the WI Department of Justice for their willingness to work with us on this issue.

In 2007, Kelsey Smith was abducted in broad daylight from a local department store in Kansas. Four days after her abduction, Kelsey's body was found. During her short disappearance, law enforcement struggled to get her telecommunications service provider to disclose the location of her cell phone, even with a subpoena. After three days, the company finally gave that information to the police, but by then it was too late. When someone goes missing, every second counts; law enforcement cannot be sitting ducks when a person's life is in immediate danger.

AB 960 aims to address how quickly law enforcement officers are able to obtain cell phone location data from telecommunications service providers. Under current law, a law enforcement officer *may* seek, and the wireless providers *may* provide, the location of an individual's cell phone without a warrant, only if the customer/subscriber consents or if an emergency involving a death or serious bodily harm exists. This bill would require wireless communications providers to turn over the device location information to law enforcement without a warrant if the customer/subscriber consents, if the provider believes that there is an emergency involving a potential death or serious bodily harm and the location is relevant to helping prevent that, or if law enforcement sends a written request to the provider stating that the disclosure of the location information is crucial in helping prevent a death or seriously bodily harm in an emergency situation. The bill also requires providers to send the emergency contact information for these requests to the Department of Justice annually.

Kelsey's parents have been advocating for this type of legislation nationwide. Similar legislation has been enacted in 30 states since 2009. This is a matter of saving lives and utilizing every bit of information we can in order to do so. Thank you, and I will take any questions at this time.

Respectfully,

A handwritten signature in black ink, appearing to read "Jesse James".

Senator Jesse James

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