

SenatorBailey_FWA_SB517.pdf

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Judicial Proceedings Committee



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February 16, 2022

Senate Bill 517 – Criminal Procedure – Location Information – Exigent Circumstances
(Kelsey Smith Act for Maryland)

Dear Chairman Smith and Members of the Committee,

I am writing to introduce Senate Bill 517 – Criminal Procedure – Location Information – Exigent Circumstances (Kelsey Smith Act for Maryland). This bill would require that service providers of electronic devices cooperate with law enforcement and public safety agencies by providing the location information of an electronic device if requested when exigent circumstances apply.

The purpose of this bill is to save the lives of missing persons. When first responders are looking for a missing person, minutes and seconds matter to find that person while they are still alive. Senate Bill 517 is based on legislation that has passed in 30 other states. This legislation is necessary because, since this exemption does not currently exist in Maryland, service providers can take hours and sometimes days to respond to requests from law enforcement.

The Kelsey Smith Act is named after a young woman who was abducted in broad daylight from a Target store in Overland, Kansas in June of 2007. About three hours after she was abducted, her car was found in the Target parking lot, and her family and friends as well as the police began to search for her. An hour after Kelsey was kidnapped, a signal from her cell phone was picked up. When law enforcement officials asked her cell phone carrier for the “ping” records which would have pinpointed her location, the carrier did not provide those records for over three days. When the carrier did turn over the records, it took authorities 45 minutes to locate Kelsey’s body. She had been raped and murdered.

Law enforcement officers are currently able to obtain this information in exigent circumstances, but it can take hours to days as the law does not require service providers to comply. The bill limits agencies requesting location information to a maximum of 48 hours, and provides that a person who complies with this law cannot be held civilly liable. In addition, following discussions with those who have expressed concerns about this bill, I am working on amendments that would clarify that the carriers are also not liable if they comply with this law, as well as to provide for notification of the person whose location information was obtained and ensure that these individuals can request judicial review of the decision to obtain their location information after the fact.

I respectfully request a favorable report with amendments on Senate Bill 517. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Bailey".

Senator Jack Bailey