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## **POSITION ON PROPOSED LEGISLATION**

**BILL:** HB 129 Criminal Procedure - Location Information - Exigent Circumstances  
(Kelsey Smith Act for Maryland)

**FROM:** Maryland Office of the Public Defender

**POSITION:** Informational

**DATE:** 01/26/24

The Maryland Office of the Public Defender encourages the Judiciary Committee to adopt the amendments from the 2022 version of the Kelsey Smith Act bill. ([Linked here](#) and Attached as a PDF).

The amendments added to the 2022 version of the bill would ensure that the terms and circumstances of this location information access would be limited. Specifically, the bill should ensure that the location information is being obtained only when a person is in imminent danger or faces imminent harm. Additionally, there should be after-the-fact judicial review and prompt notice to the person whose location information was obtained. Moreover, this bill should provide judicially enforceable remedies when location information is acquired in violation of the law. In the digital age that we live in today, where the majority of Americans have smartphones which they carry on their persons most – if not all – of the time, invasive access to a person’s location based on their cell phone or other electronic device must be exercised with the utmost care and caution. The breadth and vagueness of this bill without the amendments causes great concern for its broad interpretation and potentially far-reaching scope.

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.**