

New Michigan bill would let police obtain location data from cellphones without a warrant in emergencies

By [Kyle Feldscher](#) on January 27, 2015 at 11:05 AM, updated January 27, 2015 at 11:50 AM

LANSING — Michigan law enforcement agencies would be able to obtain location information from the cellphones of private citizens without a warrant during emergency situations if a bill discussed Tuesday passes the Legislature.

House Bill 4006, named the Kelsey Smith Bill, would allow police agencies to ask cellphone companies for the last known location of wireless devices during emergency situations. Police would not have to ask for a warrant from a judge in order to get that information.

The bill is named for a Kansas girl who was abducted. Michigan House Criminal Justice Committee Chair Rep. Kurt Heise, R-Northville, said police in Kansas waited for four days to get a warrant and then get location information on Kelsey's cellphone from Verizon Wireless. She was found — raped and murdered — an hour after Verizon gave police the location information.

“In an emergency situation, it is not always possible to find a judge to issue a search warrant or issue an order to obtain this information,” Heise said.

There was no vote on taking the bill out of committee at Tuesday's meeting of the House Criminal Justice Committee. Being the first meeting of the committee for the 2015-16 legislative term, the meeting was more for introductions of new members and Heise's testimony on the bill.

The bill is a reboot of a proposal introduced during the last two-year term of the Michigan Legislature, which never made it to the governor's desk.

Heise said the bill is only meant to be used in emergency situations and it could be helpful in locating people in abduction situations, elderly citizens and children when they are lost and other situations.

He said there is a federal Kelsey Smith Law, but the intent of this bill is to bring that law to the state level.

The bill includes language that would make it a misdemeanor offense, punishable by a \$500 fine, for law enforcement officers to use the law for personal use or use the law in non-emergency situations.

The bill states requests could only be made in “an emergency situation that involves the imminent risk of death or serious physical harm” to a person with a wireless device. It would also make wireless carriers immune from civil and criminal liability if they respond to the request.

[Rep. Martin Howrylak, R-Troy, said he'd like to see more specific details in the bill to ensure privacy protection.](#)

“It does not clearly define when the device information is granted,” he said, adding the bill, as currently written, does not state when police can no longer use the location information.

Heise moved to assuage fears of government intrusion, saying, “The legislative intent is that it’s an emergency use, one-time thing. We don’t want to track people or anything like that.”

The bill has the support of the Michigan State Police, Michigan Sheriff’s Association and the Michigan Association of Chiefs of Police.

Rep. Peter Lucido, R-Shelby Township, said he wanted to see the costs associated with the bill.

“Somebody has to pay the provider for that data,” he said.

At this point, there is no dollar estimate on what the bill would cost the state. The bill requires the Michigan State Police to collect contact information for wireless carriers and make that information available to other law enforcement agencies. Lucido said his belief would be that the wireless carriers may charge the state for tracking down the location information as well.

Heise said the bill could be brought up again next week for a possible committee vote. It would then move to the floor of the Michigan House of Representatives for potential amendments and a full chamber vote.

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http://www.mlive.com/lansing-news/index.ssf/2015/01/new_bill_would_let_police_obta_1.html

Opinion piece by Scott Weinberg, January 29, 2015, regarding “New Michigan bill would let police obtain location data from cellphones without a warrant in emergencies”

There is a new Michigan bill, HB 4006 that would allow the police to find your location from your cell phone provider without first obtaining a warrant. It is proposed for emergency situations to protect victims of crime, but be careful. When the police can get any information about you without a first presenting their reasons to a Judge or Magistrate, our privacy rights are at risk. Of course there are emergency situations that give credence to go around our long standing and constitutional rights to be free from illegal searches and seizures, but those are limited and specifically defined. The question is: Should we now legislate another way around our constitutional protections? Police officers have to get search warrants after swearing to the facts supporting the warrant to an impartial Magistrate. It happens every day and yes it takes more time for the police. This law allows the police to forgo that step and get anyone’s location from the cell phone provider if the police feel it is an emergency. Is this too much subjective power to give the police? Does this put victims of crime at risk because the police were delayed in getting the victim’s location? We have to weigh the benefits of protecting victims of crime against our personal rights. Victims have rights. We as citizens have rights. Let’s try to protect us both.

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