

Statement of

Sen. James Muffett II

Before the

Jefferson Committee

At a Hearing Entitled

“Cell Phones in Emergencies”

Presented

June 21, 2023

Chairman, ladies and gentlemen of the committee,

I would like to begin by thanking you for taking the time to listen to my testimony on this crucial bill that will save countless lives. As you know, my name is James Muffett the Second, and I serve as the senator for the citizens of 28th district. I have been working to enact the Kelsey Smith bill here in Michigan for the past ten years. I have heard countless stories of the devastating repercussions that occur when law enforcement officers cannot locate distressed individuals in a timely manner. That is why I am here to urge you to support of this bill requiring wireless providers to furnish location information on a wireless device to a law enforcement officer in emergency conditions.

As the bill analysis mentions, wireless carriers have the capabilities to determine the exact location of cell phones – capabilities that unfortunately far surpass that which most local and state law enforcement agencies are working with. When a call from a cell phone shows up in our system, the nearest location we are provided is that of the nearest cell phone tower from the signal. Clearly, knowing the general vicinity of an emergency situation is not very useful in densely populated areas or outside of wide-open fields with zero visual obstructions, such as buildings. In these situations, it would be greatly beneficial to law enforcement officers and emergency medical services to acquire the precise location of a cell phone call from wireless providers. Currently, these providers have no legal mandate to assist law enforcement in this way, and most do not in order to protect vital privacy rights of their clients and defend themselves against liability. While we agree that these privacy rights

are important, certain concessions must be made in order to protect human life and public safety. In these emergency situations, every second and minute is the difference between life and death. This bill ensures that the most is made of these valuable seconds and maximizes the ability to protect our communities.

In the ten years I have been advocating for this bill, 13 other states have passed this legislation. They have seen this bill save girls from kidnapping, help track down Alzheimer's patients, and find people lost in massive national and state parks. I have spoken to leading authorities on the topic, like Mid-America Regional Council who provide training for 9-1-1 operators. From their years of experience of similar bills, abuse of this type of act has not been documented. 28 states have enacted laws similar to the one presently under consideration. Michigan would do well to add its name to that list.

The Michigan Association of Chiefs of Police back this bill.
Phone companies - notably Verizon back this bill.
It is for all these that I urge you back this bill.

I thank you my brother and sister legislators for your time and now stand open for questions.

Objections

1. Misuse of power

Response - The protections against misuse of the actions warranted through this bill further strengthen the advantages of this lifesaving precaution.

First, this bill rightfully criminalizes the abuse of authority provided by the new policy and protects wireless carriers in complying with this new mandate.

Second, in order to misuse this power, a police officer would need to lie to company, misusing Law Enforcement Information Network (LEIN, which would be a felony), and then file a false report.

Third, the above criminal penalties would be in addition to sanctions of the officer from their unions and disciplinary actions from their police agencies. A police officer who abuses the system and violates a citizen's privacy risk losing their job, never working a day as an officer in their lives, and facing time in prison. The severity of these punishments

2. Privacy Concerns

Response - The laws of evidence in criminal procedure already prevent the introduction of improperly attained evidence and information of a crime from being used in court – together with the severe criminal penalties in this bill ensure citizens' rights are not infringed upon and wireless providers will readily comply with the law.

3. Financial Burdens

Response - The cost is minimal. The cell phone providers only take a few seconds to transmit the data each time and then give a monthly report of the number of times this has occurred. If the cost had to be quantified, it would be on the order of a hundred dollars which is negligible by order of magnitude.

4. Too Much Discretionary Power Given to Law Enforcement

Response - Law enforcement officers determine when there are emergencies all the time. There is no algebraic equation to say when a situation is fairly normal and when it is an emergency. Let me explain what I mean.

I am a father of two darling girls, Samantha and Adeline. As their father, I know them better than any other person in the world save my wife. When they fall down the stairs, I can tell the difference between a cry that says, "Ouch, I'm hurt and scared" and one that tells me to dash for the car keys because we're headed to the emergency room.

Similarly, law enforcement officers know our community like few other people do. They see hundreds of people each day. They know what "normal" activity is and have developed a sense for what an "emergency" is. This is not an mathematical formula that they plug numbers into. This is an intuition that, while imperfect, is more often right than wrong.

5. Isn't there a federal law already mandating this mobile carriers comply?

Response - That law is only applicable to federal crimes - things like counterfeiting, terrorism, and the like. In order for that law to come into play, the state authorities would have to reach out to their federal counterparts (if the underlying crime actually had a federal counterpart to begin with), ask them to help, wait for them to give an answer(which might very well be no

because of the tremendous workload of the Feds), and then use the information if given. When a child is lost or a girl is kidnapped, seconds count. The federal law is useful for federal crimes but not for local incidents.

6. Don't mobile carriers already comply with emergency requests?

Response - Let me walk through how the system works as instituted today. A concerned neighbor or frantic parent calls a 9-1-1 operator and pleads for help locating a missing child or elderly friend. Dispatch calls a local officer who is routed to the scene. After assessing the situation, they decide whether or not this an emergency situation and fill out an information request form for whatever cell phone company covers the missing person. AT&T and Verizon are the big carriers along with T-Mobile in the state each have a form. They require (1) the name officer in charge, (2) the police report number, and (3) a brief narrative. Some require supervising authority's name and signature. All of this information is needed before getting ping. The mobile carrier then works with officer until the scenario is resolved whereupon they terminate the emergency connection to the phone. However, when seconds count, paperwork should not be the difference between a life lost and a living grandparent. This bill streamlines the process while taking significant steps to safeguard privacy.