

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 a.m. on February 9, 2009, in Room 783 of the Docking State Office Building.

All members were present.

Committee staff present:

Melissa Doebelin, Office of the Revisor of Statutes  
Sean Ostrow, Office of the Revisor of Statutes  
Mary Torrence, Office of the Revisor of Statutes  
Mary Galligan, Kansas Legislative Research Department  
Cindy Lash, Kansas Legislative Research Department  
Renaë Hansen, Committee Assistant

Conferees appearing before the committee:

Rob Olson, Representative  
Greg and Missy Smith,  
Erik Sartorius, City of Overland Park  
Dan Jacobson, AT & T  
Frank Denning, Sheriff of Olathe  
Ron Gaches, Sprint  
Ron Gaches, Williams Company

Others attending:

Thirty-three including the attached list.

Hearing on:

**HB 2126 - Requiring telecommunications providers to provide call location information in emergency situations.**

Melissa Doebelin, Kansas Revisor of Statutes, explained **HB 2126** to the committee.

Proponents:

Rob Olson, Representative, (Attachment 1), offered testimony in support of **HB 2126** noting some proposed amendments that would help make the bill more workable.

Greg and Missy Smith, (Attachment 2), offered testimony in support of **HB 2126** noting other cases across the nation where this would have helped.

Erik Sartorius, City of Overland Park, (Attachment 3), presented testimony in support of **HB 2126**.

Opponents:

Dan Jacobson, AT & T, (Attachment 4), offered testimony that explained the way they offer pinging to their customers. He noted that with the change in the proposed legislation they would be supportive of **HB 2126**. Part of his testimony included a form that would be filled out by law enforcement to ensure that the request for pinging is legitimate.

Bob Keller, Sheriff of Olathe, (Attachment 5), offered testimony that noted that with the proposed language change amendment they would be in favor of **HB 2126**.

Ron Gaches, Sprint, (Attachment 6), noted that with Representative Rob Olson's proposed changes they would be in favor of **HB 2126**. Mr. Gaches noted that Sprint's procedure involves a verbal discussion between law enforcement, themselves and 911.

CONTINUATION SHEET

Minutes of the House Energy And Utilities Committee at 9:00 a.m. on February 9, 2009, in Room 783 of the Docking State Office Building.

Questions were asked and comments made by Representatives: Annie Kuether, Tom Sloan, Carl Holmes, Vern Swanson, Rob Olson, and Tom Moxley.

The hearing on **HB 2126** was closed.

Hearing on:

**HB 2271 - Regulations for underground hydrocarbon storage wells.**

Melissa Doeblin, Kansas Revisor of Statutes, explained **HB 2271** to the committee.

Proponents:

Ron Gaches, Williams Company, (Attachment 7), presented testimony in favor of **HB 2271**. He gave an explanation of why this bill needs to be enacted into law.

The hearing on **HB 2271** was closed.

The chairman spent time talking about the rest of the week is scheduled. He noted that if there are no Republican or Democrat caucuses we will start the committee meeting at 8 a.m.

The next meeting is scheduled for February 10, 2009.

The meeting was adjourned at 10:05 a.m.

# HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: February 9, 2009

NAME	REPRESENTING
Joe Diek	KCBPU
Mike Murray	Eubaug
Don Jacobsen	ATT O
Jeffrey Lewis	ATT
Mika Huttles	KRITC
Phil WAGG S	KCPLO
Maril Hazlett	CETP
Jim Garbner	ATAAT
<del>JOHN BOTTENBERG</del>	SHERIFFS
Tom Cochran	Sprint / Williams
Leigh Keck	Hein law firm
Mark Schwerber	Westar Energy
Selby Bush	Williams
TJ Rinke	Williams
Mari Tucker	Dept of Commerce
Mike Speck	Loche Brader
Bob Keller	JCSO
Jimmy M... ..	Visitor
Eric Holtz	KCC

TOM DAY

KCC

# HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: February 9, 2009

NAME	REPRESENTING
Kumbarly Green Sady	GSPA
Doug Smith	PSA
Nelson Kueger	PAR
JARRY BERG	MIDWEST ENERGY
Tom Thompson	Sierra Club



State of Kansas



**Representative Rob Olson**  
**Kansas House of Representatives**  
**26<sup>th</sup> District**

Docking Building, 7<sup>th</sup> Floor  
Topeka, KS 66612

785/296-7632  
[Robert.Olson@house.ks.gov](mailto:Robert.Olson@house.ks.gov)

**House Bill 2126**  
**Testimony of**  
**Representative Rob Olson**  
**to the**  
**House Energy and Utilities Committee**

**February 9, 2009**

Chairman Holmes and Fellow Members of the Committee,

Thank you for this opportunity to testify in support of House Bill 2126.

On June 2, 2007 Edwin R. Hall kidnapped, raped and murdered 18-year old Kelsey Smith.

The daughter of a police officer, Kelsey knew to call if she was going to be late. And when she didn't call after failing to return as expected from a trip to the Target store, her family began to worry – and tried calling her cell phone.

Early in the investigation into Kelsey's abduction, her family and police became frustrated with how long it was taking Verizon Wireless to release information about her cell phone usage.

Cell phone signals, known as pings, occur when a cell phone is in use, either receiving or sending a call or message. These pings are sent to the service provider's nearest cell phone tower. Investigators can use this information to track down the cell phone's general location.

It took Verizon nearly four days to provide the necessary information. Once a map of the pings was drafted and a search area was identified, police found Kelsey's body in less than an hour.

Verizon Wireless has said it was following protocol.

House Bill 2126 requires a telecommunications carrier to provide caller location information in emergency situations in a timely manner to law enforcement officers, prosecutors, or the missing person's immediate family. There must be a strong belief the emergency situation involves the risk of death or serious physical harm.

The Smiths have said they do not believe a near instantaneous response by Verizon would have saved their daughter's life. But they believe as do I that there will be a situation where investigators will have enough time to react to an abduction. And with this tool, they will be able to bring a missing loved one home alive.

Thank you for the opportunity to appear in support of HB 2082. I will be happy to stand for questions at the appropriate time.

*HOUSE ENERGY AND UTILITIES*

DATE: 2/9/2009

ATTACHMENT 1-1





Map by KMBC-TV, Kansas City, MO. Posted at <http://www.kmbc.com/image/13456867/detail.html>

Analysis of the phone records show Kelsey Smith's phone passed through cell phone locations located on I-35 to I-435, then east to south on Highway 71, and from there to an area in the vicinity of Longview Lake Park. Searchers found Kelsey's body in a large wooded area near the lake.

# HOUSE BILL No. 2126

By Committee on Energy and Utilities

1-28

1-3

9 AN ACT concerning telecommunications; relating to providing caller lo-  
10 cation in emergency situations.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. A telecommunications carrier shall provide call location  
14 information concerning the user of a telecommunications service, includ-  
15 ing a wireless telecommunications service, to [

16 ~~(a) A public safety answering point, emergency medical service pro-~~  
17 ~~vider or emergency dispatch provider, public safety, fire service, law en-~~  
18 ~~forcement official, hospital emergency or trauma care facility] in order to  
19 respond to the user's call for emergency services [~~

a law enforcement official

20 ~~(b) the user's legal guardian or members of the user's immediate~~  
21 ~~family] in an emergency situation that involves the risk of death or serious~~  
22 ~~physical harm [~~  
23 ~~(c) providers of information or database management services solely~~  
24 ~~for purposes of assisting in the delivery of emergency services in response~~  
25 ~~to an emergency].~~

or to do a ping locate

26 Sec. 2. This act shall take effect and be in force from and after its  
27 publication in the statute book.

1-2



February 9, 2009

First I want to thank you for considering such an important piece of legislation. My name is Missey Smith. I am the mother of Kelsey Smith, the young lady that was taken from a Target store in Overland Park, Kansas on June 2, 2007. Kelsey's body was recovered four days later on June 6, 2007. Those have been the longest four days in my life. Four days of agony for us as a family, for her friends, relatives, the community and the nation. What took so long to find Kelsey? One word, Verizon.

When our daughter Lindsey called me, I was on my way home from a wedding in Des Moines. She let me know that Kelsey was not answering her phone or text messages, I knew immediately that something was wrong. My husband and Kelsey's siblings and John, continued to try and reach her as did I for the last hour of my trip. Sometime that night after arriving home, John, Kelsey's boyfriend explained that his uncle used to work for Sprint and had explained that our cell phone company could "ping" Kelsey's phone so we could locate her. It seemed simple enough. Little did we know? I called our provider, Verizon, I explained that my daughter was missing and I needed help to locate her. They told me that they were unable to do that. They explained that I could get on-line and check her cell phone activity. We had contacted police and I believe had located her car. I know some time that night Greg also contacted them and was told the same thing.

I believe it was July of 2007, District Attorney Kline arranged for a meeting with us and officials from Verizon. We wanted to find out what had happened in Kelsey's case. In this meeting were myself, Greg, Mr. Kline and from Verizon there was Mark Crumpton, President of the Kansas/Missouri Region and three lawyers. Needless to say this was not a productive meeting. I explained that if the lawyers were there because they thought we wanted to sue them, that was not what we were about. We wanted them to go back and check their protocol and fix whatever was broken because they had failed my daughter by leaving her out in the woods for four days. That they needed to fix it before it happens again. That in the society we live in, it will happen again, and that if a young lady were alive and had to wait on them to react as they had in Kelsey's case, she could die. I made it clear to them that we did not in any way blame them for Kelsey's death. I do believe they were responsible for the days of agony that we endured because they would not cooperate with Law enforcement. The female lawyer at one point explained to us what the "normal" protocol was when a parent calls saying that their child is missing. She also explained that when I called I had used the terminology "ping" and that that was not a term that Verizon used. I explained to her in a very stern tone, to not make a family figure out what was the magic word to get them off their behinds to help a family find their child. Mr. Crumpton at one point said to me, "Mrs. Smith, we did not handle things properly in your case." He said he was sorry for what we had gone through. Mr. Crumpton had given us his name and direct number. When I called him a couple of weeks later regarding an issue, his assistant, Nancy Bates explained that he had retired. I have to tell you this really surprised us.

Unfortunately, they have not learned their lesson. In September of 2007, Tanya Rider, of Washington State had been missing for eight days, was found alive at the bottom of a ravine in her wrecked vehicle. Verizon, her carrier according to her husband on Larry King, was not helpful in locating her. In an article I have, Sheriff Rahr of the King County Sheriff's office stated that there has to be a more timely way to get cell phone records in a missing person's case. She believed that Mrs. Rider could have been found 3 ½ days sooner.

*HOUSE ENERGY AND UTILITIES*

DATE: 2/9/2009

ATTACHMENT 2-1



In August of 2008, a woman was shot and killed by her son. She had dialed 911 from her cell phone. There was a delay in getting the "proper form faxed". She was in Vermont and unable to state her address, her phone could be traced to the tower the call was received in New York.

Verizon is not the only company that this occurs with. We have gotten to know the Sanderholm family of Ark City. Their daughter Jodi was missing for days and found murdered four days later. They had a two delay in getting the records of their daughter Jodi's cell phone. They were waiting on the subpoena. Their provider was US Cellular. I recently met Lori Dennis, the mother of Renee Dennis, who was murdered on March 2, 2007. She too had cell phone issues with Cellular One. Renee wasn't found for 13 days.

We were taken out to the site at Longview Lake where Kelsey was found. We started at "THE" cell tower that her phone had last made contact. It was explained to us that once Verizon had an engineer come to that tower on the Wednesday, it took approximately 45 minutes to locate her. Kelsey had been missing since Saturday evening.

Later in the fall, I called Nancy Bates, the administrative assistant at Verizon. I explained to her that in the meeting we had, I told the lawyers I was going to call them and find out what had happened in Kelsey's case and what protocols were changed. She called me back to explain they told her, to tell me they found their protocol to be 'adequate'. I was furious. Needless to say, Verizon never did answer for us the "WHY". Why did they not cooperate with police and law enforcement to help bring my child home?

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## Technology, bureaucracy delayed Vt. 911 response Associated Press

By Wilson Ring, Associated Press Writer | August 8, 2008

MONTPELIER, Vt. —A 911 dispatcher trying to find a Vermont woman being beaten to death was slowed by technical problems and a bureaucratic roadblock at Verizon Wireless, delaying emergency responders' ability to reach the victim, a county official in New York said Friday.

The dispatcher was placed on hold for two minutes and then got a busy signal when trying to fax a form that would allow Verizon Wireless to release the billing address of the victim's cell phone, said Bill Cook, the director of Public Safety for Washington County.

It was 30 minutes between the time a screaming Francine Morgan made a 911 call from her home in Wells, Vt., just before 4 a.m. Aug. 2 that was answered across the state line in New York and the Vermont State Police in Rutland could be sent to her home where she was found dead.

"This was in 24 years of being in this business, the worst call I've ever had to review," said Cook.

It's unclear if without the delay, troopers could have saved the life of Morgan. Her 14-year-old son Christian Taylor has pleaded not guilty to a second degree murder charge in the death of his mother.

During the call, operators heard Morgan screaming and noises consistent with an object striking another object. After a time Morgan's voice stopped.

The issue was further complicated because the Washington County 911 system didn't have computerized maps of Vermont that would have displayed the location of Morgan's call. Instead, the computer displayed the location of the cell tower that picked up the call, officials said.

The tower was located in Granville, N.Y., several miles from Morgan's home in Wells. Before the location of the call was identified, Washington County officials had to get the billing address of Morgan's account.

Cook said the Verizon Wireless official who answered the phone in New Jersey wouldn't release the billing address without a faxed verification form. The form was then faxed to Washington County and when officials tried to send it back they were further delayed by a busy signal.

Verizon Wireless spokesman John O'Malley said the operators at the company's center needed to verify that the request for billing information was legitimate. The fax system has been in place for five years and there has never been a problem.

"When our analyst offered to fax the form, (the Washington County operator) didn't say this is really time critical. Had he done that our analyst would have done a callback verification," O'Malley said.

O'Malley said Morgan had a new phone that did transmit the location of the 911 call, but because Washington County didn't have the proper mapping software it didn't do any good.

But Cook said that wasn't true. He said his office had a recording of the conversation in which his operator made clear there was an assault in progress and time was critical.

"They are just trying to pass that off on somebody else," Cook said.

After Morgan's first call was received, a second Washington County operator called back the number, and listened to Morgan's message, which only gave her first name. The center sent Granville police to knock on

doors looking for someone named Francine.

Apart from the delays in getting Verizon Wireless to release the caller's billing address and software issues, experts say the case highlights the limitations of using cell phones to call 911, especially in border areas where calls from one state can be answered in another state or, in some cases, another country.

It's routine for 911 operators to receive calls from outside their jurisdiction. When that happens operators can pass the call to the appropriate location, said David Serra, the executive director of Vermont Enhanced 911 Board.

What was unusual in the Wells case was Morgan couldn't communicate.

"It was very good work on their part," Serra said of the people who dealt with the call in New York. "Instead of hitting the 800 number and sending this call that nobody is on the other end of and that there's no location information for to Vermont 911, they sought to find who it was so they called Verizon Wireless."

Since Morgan's call, Cook said his office was working with Serra's office to load computerized maps of Vermont into the Washington County system.

"We don't typically share that data, but we are going to start doing that," Cook said. "We have been working with Vermont officials. We are going to do some test calls next." ■

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Statement on Rider Case

[News](#) Oct. 3, 2007

[and](#)

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## Sheriff Rahr Issues Statement Regarding Tanya Rider Case

"I have some positive news to report in the aftermath of Tanya Rider's horrific accident. Certainly the first and most important is that she was found and is recovering.

Second, this case has prompted the Sheriff's Office to review with a critical eye how we handle missing persons cases in general and this case in particular. We have begun looking at our process from start to finish. Equally important, it has given us an opportunity to engage the public so they are more aware of the hurdles we have when investigating these cases.

Yes, we do have a screening process when someone calls 9-1-1 to report someone missing. In fact all 9-1-1 calls must be screened and prioritized to one extent or another. The reason behind our screening policy for missing person cases is threefold: (1) to expedite an investigation when foul play is suspected or a person is otherwise at risk; (2) to protect the privacy of the person believed to be missing; (3) and to best utilize the very limited resources of the Sheriff's Office. We cannot afford to misdirect resources if the person is "missing" of their own accord, or not really missing at all.

I have reviewed the policies we have in place for initiating a missing person case. I believe those policies are appropriate, and generally mirror the policies of other police agencies. We will be handing out a copy of that policy today.

Secondly, I believe these policies were followed by our Call Receivers when Tom Rider called 9-1-1. I will qualify that by saying the decision to take the report is a subjective one, by necessity, since each situation is different. That means different people might come to a different conclusion.

In this situation, I've spoken with Call Receivers on both sides of the fence - some say we should have taken the report a day earlier, others say it was handled appropriately.



Nevertheless, I would have preferred that the report be taken on the first or second call Saturday morning, rather than 24 hours later. But I want to emphasize that this would not have changed the outcome of the case because the information we had at that time did not warrant calling out detectives immediately.

Finally, I looked at this case from the standpoint of customer service. Did we provide an appropriate amount of "service" to Tom Rider? I determined that in each of his calls we helped him work with Washington State Patrol to see if they were investigating any accidents that might involve Tanya. We helped Tom contact Bellevue Police, which is where Tanya was last seen. We helped Tom work with Renton Honda to determine if Tanya's new car had a locator device. We also helped Tom understand the importance of contacting family and friends, as well as hospitals and jails.

Could we have done more? Yes, we could have. I think we could have reduced Tom's sense of frustration and helplessness if we had done a better job of explaining to him how the process worked, and been more specific in explaining what he could do in the meantime to help. For that Tom, I apologize. And I assure you we will do a better job in the future.

I will be talking with the Call Receivers involved to make sure they understand my concerns.

In addition, one of the improvements we will make right away is to provide the person making the report with a list of jails and hospitals that he or she can call right away. I am also going to explore the feasibility of using our Police Chaplains or other volunteers to work with the person making the report to help explain the process one-on-one, and to assist the person in making the appropriate calls. This is especially important when someone is understandably upset and emotional when a loved one is apparently missing.

I have also reviewed the investigation that was done. I believe it was a thorough and proper investigation, and as a result of the excellent work of our missing persons investigator and major crimes detectives, Tanya Rider is alive today.

In spite of that, however, I am still deeply troubled by the hurdles our investigators had to overcome, and the ensuing time delays in getting the cell

phone records that ultimately led us to the location where Tanya was trapped in her car. There must be a more timely way for law enforcement agencies to get cell phone records pursuant to a missing persons case.

I will be teaming up with other Sheriff's and police chiefs to explore a possible legislative fix for this situation. I want the cell phone companies to provide police with the requested information immediately, while indemnified from liability.

The police would necessarily be forbidden from releasing that information to third parties—including spouses and family members. (This step is necessary to protect those who are fleeing from family violence.) Furthermore, police agencies must have very strict guidelines in place for accessing the information. The information received must be exempt from public disclosure to protect the privacy interests of the cell phone owner.

However I am only asking for this change for missing person cases. I believe criminal investigations where cell phone records are needed should still have a search warrant for accessing those records.

I am asking Tom Rider to work with me toward this legislative change. State Representative Al O'Brien, a former police officer, has already stepped forward and pledged to help us. Representative O'Brien has previously been an advocate for missing persons legislation. (SB 5191)

Again, my thanks to Tom Rider for understanding the limitations the Sheriff's Office had when investigating the disappearance of his wife. My heart goes out to Tom and his wife for what they have endured so far, and I send my best wishes to Tanya from the entire Sheriff's Office for a speedy recovery."

Updated: May 29, 2008

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Testimony Before The House Energy & Utilities Committee  
Regarding House Bill 2126  
Presented by Erik Sartorius  
February 9, 2009

The City of Overland Park appreciates the opportunity to share with the committee its support for House Bill 2126. We support the ability of public safety officials to access data from telecommunications companies in times of emergencies to assist investigations.

When time is of the essence, data from telecommunications companies can provide crucial clues to the whereabouts of an individual. Access to this data should be allowed while taking into account privacy concerns.

Kelsey Smith was a student at Shawnee Mission West High School in Overland Park. On June 2, 2007, she was abducted from the parking lot of a local retailer. She was murdered later that evening, though her body wasn't found until June 6.

At the time she was reported missing, however, law enforcement officials worked under the assumption that Kelsey might still be alive. In an attempt to pinpoint her whereabouts, requests were made to her telecommunications carrier to provide records that could assist search efforts.

Specifically, data automatically sent from her phone to the nearest cellular phone tower creates a string of "pings" that can be utilized to approximate the route taken by an individual in possession of her mobile phone. Identifying the last cellular tower that received a ping led to the eventual discovery of Ms. Smith's body.

Investigators and prosecutors were frustrated by the delay of the telecommunications company in releasing the records. A request to the company was made the day after the abduction, but the company did not comply with the request until two days later.

Though quick action from the mobile phone company would not have aided in this specific case, once all the facts were known, law enforcement officials work under the assumption that abductees are alive and that any information that may result in the safe recovery of the person is vital.

The City of Overland Park supports the goal of House Bill 2126, providing public safety officials access to data that can assist investigations. We look forward to working with all parties to craft good legislation, and ask for the committee's support for the bill.

*HOUSE ENERGY AND UTILITIES*

DATE: 2/9/2009

ATTACHMENT 3



Dan Jacobsen  
President-Kansas

AT&T Kansas  
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Suite 500  
Topeka, KS 66603

785.276.8201 Phone

Testimony of Dan Jacobsen, President – AT&T Kansas  
Regarding HB 2126 – Caller Location in Emergencies  
Before the House Energy and Utilities Committee  
February 3, 2009

Mr. Chairman and Members of the Committee,

My name is Dan Jacobsen. I am the President of AT&T Kansas. I appreciate this opportunity to speak with you regarding House bill 2126. This bill addresses the need for communications companies to provide information on caller location during life-threatening emergencies. AT&T has a state-of-the-art system for responding to requests for location of wireless customers. We operate a system that is responsive to emergency situations but is also sensitive to the need to protect customer privacy. Here is a brief description of AT&T's process:

When customers contact AT&T for help in locating a missing family member, our service representatives are trained to tell them to contact their local law enforcement who will make the official request to AT&T. We have worked with law enforcement (police departments, sheriffs, PSAPs) across the country to assure that they know how to contact AT&T for such requests. AT&T has a central location that handles these requests for the entire country. This center is referred to as the AT&T Mobility National Compliance Center or "NCC". The NCC is able to provide location (cell site) information to law enforcement based on either historical call records or by utilizing a tool known as the Mobile Locator which, if the missing family member's wireless device is turned on, has the ability to provide latitude and longitude of the location of the phone typically within 50-100 meters. In many markets Location information from the NCC can be obtained manually by an AT&T employee logging into the system and providing the information to law enforcement or the system can be programmed to automatically send information directly to law enforcement officials every 5, 15 or 30 minutes via email depending on the urgency of the investigation.

AT&T's NCC handles about one hundred emergency requests each day from PSAPs, police departments and other law enforcement agencies. The center is open seven days a week, 24 hours a day. We have designed the system to provide information to law enforcement officials in a manner that is consistent with the federal law governing such disclosure – the Electronic Communications Privacy Act ("ECPA"). Federal law specifically provides that telecommunications carriers may provide such information "to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency." 18 U.S.C. 2702(c)(4). By

*HOUSE ENERGY AND UTILITIES*

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providing the information to law enforcement, the carriers are able to more quickly confirm that a situation is, in fact, a life-threatening emergency. It also assures that we properly safeguard sensitive confidential information about the location of our wireless customers. Information is provided to PSAPs immediately upon verification that we are in fact dealing with a legitimate PSAP, with the PSAP providing a follow up "Exigent Circumstances Form" after the fact. All other exigent requests for location information require law enforcement to sign a certification stating that the information is needed because a person is in danger of death or serious physical injury and agreeing to provide follow up legal process within 48 hours. In those cases where a person is missing and law enforcement cannot validate that a crime has been committed, the NCC sends a Missing Person form which does not require follow-up with a court order. The certification must be signed and returned to the NCC prior to receiving the information. As an added precaution, all exigent requests must be approved by an AT&T Supervisor or Manager before the information is provided; however, this does not create a delay as there is a Manager or Supervisor on call 24X7.

AT&T has been responding to requests for customer location information for many years. Our efforts have been invaluable in assisting law enforcement with kidnappings, missing persons and attempted suicides. There are numerous documented cases of lives being saved as a result of the NCC's prompt response to requests made during emergencies. The information provided by the NCC is not taken lightly and every precaution is taken to preserve the customer's right to privacy while assisting law enforcement when lives are in danger. From this perspective, we are concerned about HB 2126. It would require AT&T to provide customer location information in a much different framework. Rather than relying on law enforcement officials to determine that a situation is an emergency involving risk of death or serious physical injury, AT&T would be expected to make this judgment without access to the same level of information available to law enforcement officials. Further, by providing family members, hospitals and database management services direct access to our information, we would be at a serious risk of divulging information in inappropriate situations, such as stalkings. For example, estranged abusive spouses could fall under the bill's "immediate family" provision and utilize these procedures to obtain precise location information regarding their estranged spouse which could result in very serious, dangerous and unintended consequences. Many other difficult situations would be presented to us. In our experience, the current process is working well and strikes the appropriate balance between responding to emergency situations, while protecting the privacy rights of our customers. Accordingly, we recommend that this bill not be approved.

Thank you for this opportunity to discuss this important topic.



Please call 1-800-635-6840 for processing of this request.

AT&T EXIGENT CIRCUMSTANCES FORM –  
TRANSACTIONAL RECORDS WITH LOCATOR TOOL INFORMATION  
FOR MISSING PERSON

From: NSCC  
(Name/Law Enforcement Agency)

Subj: Emergency Request for Transactional Records with Cell Site/Location  
Information for  
Telephone Number

This agency has reasonably determined that an emergency exists that involves immediate danger of death or serious physical injury to a missing person

The emergency which exists is: (state type of emergency)

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As a result of our determination that a missing person may be in immediate danger of death or serious physical injury, we require the production of the transactional records with cell site or more precise location information to this agency in order to render assistance to that person. We believe that the disclosure of the requested information is "justified" as required by 18 U.S.C. § 2702 (c). Because it is not obvious at the present time that a crime has been committed, it will not be possible to obtain a search warrant or a probable cause court order. Because of the nature of the emergency, the following records/information are needed by this agency.

Information Required: \_\_\_\_\_

**DATE RANGE REQUIRED:**

You are hereby requested to produce the above-described information and/or records as soon as possible.

Printed Name: \_\_\_\_\_  
Signature/Title: \_\_\_\_\_  
Address \_\_\_\_\_  
Address 2 \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
Contact Number: \_\_\_\_\_  
Date: \_\_\_\_\_

This form must be filled out in its entirety.  
Fax completed form to the NCC at (888) 938-4715.

AT&T MOBILITY

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FRANK P. DENNING  
SHERIFF

TELEPHONE  
913-791-5800

FAX  
913-791-5806



DUTY HONOR SERVICE

125 N. CHERRY  
OLATHE, KANSAS 66061  
WWW.JOCOSHERIFF.ORG

DAVID A. BURGER  
UNDERSHERIFF

KEVIN D. CAVANAUGH  
UNDERSHERIFF

Chairman Holmes and distinguished members of the Committee:

My name is Frank Denning and I'm the Sheriff of Johnson County. Thank you for the opportunity to testify on HB 2126. I feel it's necessary to make the committee aware of the real possibility for negative consequences should the bill as written, become law.

HB 2126 mandates that telecommunications carriers provide call location information to the user's legal guardian or members of the user's immediate family in an emergency situation that involves the risk of death or serious physical harm. Expanding this responsibility beyond current federal law may be problematic for two reasons. First, HB 2126 would provide greater offender access to victims of domestic violence. Second, HB 2126 potentially removes law enforcement from the decision-making process regarding the response to emergency situations.

The Bureau of Justice Statistics recently reported that Global positioning system (GPS) technology comprised approximately one tenth of the electronic monitoring of stalking victims by offenders. HB 2126 would make GPS tracking of victims possible for the portion of stalking offenders that consists of estranged spouses. This increased tracking ability could have potentially grave consequences.

Certified law enforcement officers receive extensive training in identifying and appropriately resolving emergency situations. Part of this function consists of providing for the safety of all involved parties. The request of a family member to have another tracked through GPS technology in their cellular telephone is not always in the best interest of all involved parties.

Decisions regarding the dissemination of this information should be left to law enforcement professionals. The process in place now effectively allows all public safety first responders to obtain the information they need in emergency situations. Passing HB2126 would not be in the best interests of the public safety of Kansans.

Thank you for your time and consideration in this matter. I'm ready to stand for your questions.

Respectfully,

Sheriff Frank Denning

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# GACHES, BRADEN & ASSOCIATES

Government Relations & Association Management

825 S. Kansas Avenue, Suite 500 ♦ Topeka, Kansas 66612 ♦ Phone: (785) 233-4512 ♦ Fax: (785) 233-2206

Testimony of Sprint  
In Opposition to HB 2126 Requiring Caller Location in Emergency Situations  
Before House Energy and Utilities Committee  
Submitted by Ron Gaches  
Monday, February 9, 2009

Thank you Chairman Holmes for this opportunity to speak to your Committee on behalf of the Sprint. The bill before you addresses an important public safety issue regarding the circumstances when a telecommunications carrier must provide call location information. Specifically, the bill stipulates the parties that shall have the authority to obtain call location information from the telecommunications carrier.

Sprint fully supports what we understand to be the intent of this proposal: To promote the public safety. However, we believe this bill goes too far in granting parties other than law enforcement the authority to demand a call location from the company.

Spring currently provides call locations in compliance with federal law. The general rule under federal law (47 USC 222(d)) is that customer proprietary network information (including location) is generally considered confidential or privileged. The law provides specific exceptions that are permissive, not mandatory. These include:

“to provide call location information concerning the user of a commercial mobile service (A) to a public safety answering point, emergency medical service provider or emergency dispatch provider, public safety, fire service, or law enforcement official, or hospital emergency or trauma care facility, in order to respond to the user’s call for emergency services; (B) to inform the user’s legal guardian or members of the user’s immediate family of the user’s location in an emergency situation that involves the risk of death or serious physical harm; or (C) to providers of information or database management services solely for purposes of assisting in the delivery of emergency services in response to an emergency.”

The bill mirrors the language in the federal law. The difference is that the federal law is permissive and the proposed state law is mandatory.

Sprint’s current process in an emergency is to obtain verification of the identity of the law enforcement agent requesting the information, and then to release location information to the law enforcement agent only. This process routinely works well, is understood by law enforcement personnel nationwide and has effectively worked to protect the public safety while affording phone owners the confidentiality required under federal law.

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The bill does not create any provision for verification of the identity of a family member or health care professional, and Sprint sees no reliable way to verify the identity of such persons.

Further, the bill provides no way for Sprint to avoid liability if we release GPS location information to an abusive husband, a stalker posing as an emergency health care worker or worse. Sprint also desires to exclude the call location request where a family member or friend begins to rely on the telecommunications provider to provide GPS location information in circumstances that are not truly emergencies. Without the law enforcement participation, family members and friends will begin to use the phone company for nonemergency locates. The extra calls will inevitably slow the response time for calls that are truly emergencies. It is Sprint's opinion, that it is critically important to the public safety we only release GPS information to an authorized law enforcement agent.

We look forward to working with the bill's sponsors and supporters to improve the emergency locate capability of telecommunications companies in ways that improve efficiency and accuracy without unintentionally increasing possible risks to the phone owner or liability of the telecommunications company.



# GACHES, BRADEN & ASSOCIATES

Government Relations & Association Management

825 S. Kansas Avenue, Suite 500 ♦ Topeka, Kansas 66612 ♦ Phone: (785) 233-4512 ♦ Fax: (785) 233-2206

Testimony of Williams Company  
In Support of HB 2271 Re: KDHE Storage Requirements  
Before House Energy and Utilities Committee  
Submitted by Ron Gaches  
Monday, February 9, 2009

Thank you Chairman Holmes for this opportunity to speak to your Committee on behalf of the Williams Company in support of House Bill 2271. The bill addresses an issue regarding the means by which hydrocarbon storage well owners and operators may fulfill their financial surety requirements with the Kansas Department of Health and Environment (KDHE).

In the past, KDHE has taken a limited view of which legal entities qualify to provide financial assurance on behalf of hydrocarbon storage well owners and operators. Under current interpretation, only corporations qualify as an entity capable of providing parental guarantees to the KDHE as a means of financial assurance. In today's economic environment, many companies operate using limited liability companies (LLC) or master limited partnerships (MLP) to remain competitive and to take advantage of federal tax laws. Unless an underground storage well owner/operator is allowed to utilize the creditworthiness of their MLP parent companies to satisfy the KDHE's financial responsibility requirements, the owner/operator is forced to post expensive letters of credit.

House Bill 2271 proposes a change to current Kansas statutes to define "company or operator" as any form of legal entity including, but not limited to, a corporation, limited liability company, and limited or general partnership as organized under the laws of any state within the United States. Broadening the interpretation of "company or operator" creates the opportunity for hydrocarbon storage well owners and operators to satisfy financial responsibility requirements through affiliates which are not organized as corporations. This interpretation is in line with current practices in other states as well as business structures across the energy industry.

Williams Partners L.P. is a publicly traded master limited partnership that owns natural gas gathering, transportation, processing and treating assets serving regions where producers require large scale and highly reliable services, including the Gulf of Mexico, the San Juan Basin in New Mexico and Colorado, and the Washakie Basin in Wyoming. The partnership also serves the natural gas liquids (NGL) market through its NGL fractionating and storage assets located in Kansas and throughout the United States.

As it relates to House Bill 2271, Mid-Continent Fractionation and Storage LLC (MCFS), a subsidiary of Williams Partners L.P, owns and operates over 150 underground hydrocarbon storage caverns, 18 brine ponds, and is a 50 percent owner and operator of a 107,000 barrel per day fractionator located near Conway, Kansas. During the time that Williams Company held its Kansas storage facilities in the name of the Corporation, KDHE allowed the company to fulfill its financial surety requirement with a Letter of Guarantee from the corporation. Once the assets

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were transferred to the master limited partnership, that option was no longer available and the MLP was required to obtain a Letter of Credit from the marketplace. Passage of this bill would not require KDHE to allow the MLP to avoid providing financial assurance, but it would allow KDHE to accept the MLP's financial guarantee instead of the costly Letter of Credit.

MCFS has invested \$30 million in local expansion and maintenance projects over the past five years. Currently, MCFS is working on several capital projects to increase and enhance its Kansas operations. These projects are expected to inject more than \$20 million into the local economy and create more opportunities for growth in both revenue and local employment. MCFS takes pride in its role as an industry leader in the underground storage business and spends a considerable amount of time and resources working with local and state agencies to ensure all regulations and best practices are met or exceeded.