
DIGEST

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DIGEST
SB 182 Reengrossed 2015 Regular Session Thompson

Proposed law creates the "Kelsey Smith Act".

Proposed law provides that when acting in the course and scope of his official duties, a law enforcement agency supervisor will have the authority to submit an electronic or other written request to a provider of commercial mobile services, as defined by 47 U.S.C. 332(d), for device location information of a commercial mobile service device user if either of the following has occurred:

- (1) A call for emergency services initiated from device of the user.
- (2) An emergency situation that involves risk of death or serious bodily harm to the device user.

Proposed law provides that upon receipt of the request, the provider of commercial mobile services must disclose to the law enforcement agency the device location information.

Proposed law provides that when making the request, the law enforcement agency must search the National Crime Information Center system and similar databases to identify if the device user or the person initiating the call for an emergency situation involving the device user has any history of domestic violence or any court order restricting contact.

Proposed law provides that the information obtained by a law enforcement agency under proposed law may only be used for the performance of official duties.

Proposed law prohibits device location information from being released by the law enforcement agency to a person who either has a history of domestic violence or stalking or who is subject to any court order restricting contact with the device user.

Proposed law defines the term "law enforcement agency".

Proposed law provides that all providers of commercial mobile services registered to do business in this state, or submitting to the jurisdiction thereof, shall submit emergency contact information to the Dept. of Public Safety and Corrections, office of state police, in order to facilitate requests from law enforcement agencies for location information. The contact information shall be submitted by July first of each year and immediately upon any change in contact information.

Proposed law provides that the office of state police shall maintain a database containing emergency contact information for all providers of commercial mobile services and shall make such information immediately available to all law enforcement agencies in the state.

Proposed law provides that the office of state police may adopt rules in accordance with the Administrative Procedure Act to implement the provisions of proposed law.

Proposed law provides that notwithstanding any other provision of law to the contrary, a provider of commercial mobile services may establish protocols by which the provider voluntarily discloses device location information.

Proposed law provides that no person may file a false report to a law enforcement agency for the purpose of device location being requested from a provider of commercial mobile service and provides a penalty for violating proposed law of not more than \$500, or imprisonment of not more than six months, or both.

Proposed law provides that no person shall have a cause of action against any provider of commercial mobile services, its officers, employees, agents, or other specified persons for providing device location information while acting in good faith and in accordance with the provisions of proposed law. Also provides that proposed law shall not apply to damage or injury caused by gross negligence or willful and wanton misconduct.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 45:844.9 and 844.10)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Replaces the term "wireless telecommunications device" with "commercial mobile service device"
2. Deletes the requirement that a provider respond immediately to a request made by law enforcement agencies.
3. Changes the written request of a law enforcement agency to include an electronic or other written request.
4. Provides that a release of requested information be made in a manner respectful to a person's right of privacy.

Senate Floor Amendments to engrossed bill

1. Changes authority provision for requests by a law enforcement agency of device location.
2. Adds requirement that provider shall disclose the device location to a request made by law enforcement agencies.
3. Adds certain database search requirement for law enforcement agencies making the request.
4. Restricts use of location information to official purposes and prohibits the information obtained in the request from being released to certain persons.
5. Adds violation for filing a false report and provides penalties.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the reengrossed bill:

1. Make technical changes.
2. Add a definition for the term "law enforcement agency".