

RÉSUMÉ DIGEST

Act 165 (SB 182)

2015 Regular Session

Thompson

New law creates the "Kelsey Smith Act".

Provides that when acting in the course and scope of his official duties, a law enforcement agency supervisor may 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.

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

Requires the law enforcement agency when making a request for device location information to 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.

Requires that this information obtained by a law enforcement agency only be used for the performance of official duties.

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.

Defines the term "law enforcement agency" as any municipality, sheriff's office or other public agency who employs full-time employees whose permanent duties include but are not limited to making arrests, performing searches and seizures, executing criminal warrants, preventing or detecting crime, and enforcement of penal, traffic, or highway laws of the state.

Requires all providers of commercial mobile services who are registered to do business in this state, or submitting to its jurisdiction, to 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. Requires that this contact information be submitted by July first of each year and immediately upon any change in contact information.

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

Authorizes the office of state police adopt rules in accordance with the APA to implement new 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.

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 new law of not more than \$500, or imprisonment of not more than six months, or both.

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 new law. Also provides that new law shall not apply to damage or injury caused by gross negligence or willful and wanton misconduct.

Effective upon signature of the governor (June 23, 2015).

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