

LEGISLATIVE BILL 735

Approved by the Governor March 17, 2010

Introduced by Gay, 14; Fischer, 43.

FOR AN ACT relating to telecommunications; to adopt the Kelsey Smith Act.
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 7 of this act shall be known and may be cited as the Kelsey Smith Act.

Sec. 2. For purposes of the Kelsey Smith Act:

(1) Call location information means the best available location information, including, but not limited to, information obtained using historical cellular site information or a mobile locator tool;

(2) Law enforcement agency means a police department, a town marshal, the office of sheriff, and the Nebraska State Patrol;

(3) Wireless carrier has the same meaning as in section 86-456; and

(4) Wireless communication device means any wireless electronic communication device that provides for voice or data communication between two or more parties, including a mobile or cellular telephone.

Sec. 3. Upon request of any law enforcement agency, a wireless carrier shall provide call location information concerning the wireless communication device of a user as soon as practicable following receipt of the request to facilitate the response to a call for emergency services or in an emergency situation that involves the risk or threat of death or serious physical harm.

Sec. 4. No cause of action shall lie in any court against any wireless carrier or its officers, employees, agents, or assigns for providing call location information while acting at the request of a law enforcement agency in accordance with the provisions of the Kelsey Smith Act. All wireless carriers shall be held harmless from any and all claims, damages, costs, and expenses, including attorney's fees, arising from or related to the release of call location information while acting at the request of a law enforcement agency.

Sec. 5. (1) Any wireless carrier authorized to do business in this state or submitting to the jurisdiction of this state shall provide updated contact information to the Nebraska State Patrol on a semiannual basis or within three working days after a change in such information that would render previous contact information invalid or inefficient for use under the Kelsey Smith Act.

(2) The Nebraska State Patrol shall collect and maintain a register of contact information for all such wireless carriers.

Sec. 6. The Nebraska State Patrol shall provide the information collected pursuant to section 5 of this act to all law enforcement agencies in this state on a quarterly basis or as soon as practicable if a change in such information has occurred.

Sec. 7. Notwithstanding any other provision of law to the contrary, nothing in the Kelsey Smith Act shall prohibit a wireless carrier from establishing protocols by which the wireless carrier could voluntarily disclose call location information.