

1 SENATE BILL 524

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Mimi Stewart

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10 AN ACT

11 RELATING TO LAW ENFORCEMENT; REQUIRING WIRELESS
12 TELECOMMUNICATIONS PROVIDERS TO PROVIDE CALL LOCATION
13 INFORMATION TO LAW ENFORCEMENT AGENCIES IN AN EMERGENCY;
14 DECLARING AN EMERGENCY.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. [NEW MATERIAL] REQUIRING DISCLOSURE OF
18 INFORMATION--ESTABLISHMENT OF EMERGENCY SITUATION--PROVIDER
19 IMMUNITY--PROVIDER CONTACT INFORMATION.--

20 A. A wireless telecommunications provider shall
21 provide telecommunications device location information
22 concerning the telecommunications device of a user when
23 requested by a law enforcement agency for the purpose of
24 responding to a call for emergency services or in an emergency
25 situation that involves the risk of death or serious physical

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1 harm.

2 B. A law enforcement agency shall not request
3 information pursuant to this section for any purpose other than
4 responding to a call for emergency services or in an emergency
5 situation that involves the risk of death or serious physical
6 harm. A law enforcement agency shall not convey or disclose
7 the telecommunications device call location information to any
8 individual except as necessary for the purposes set forth in
9 Subsection A of this section or as required by an order of a
10 court of competent jurisdiction.

11 C. Before requesting telecommunications device call
12 location information from a wireless telecommunications
13 provider, a law enforcement officer shall exercise reasonable
14 judgment in determining:

15 (1) whether an emergency likely exists
16 requiring emergency services or involving the risk of death or
17 serious physical harm; or

18 (2) whether the initiation of a request for
19 emergency response is pretextual.

20 D. Unless a law enforcement officer reasonably
21 determines that the circumstances of a request for emergency
22 response require immediate action, in order to determine
23 whether the request for emergency response is pretextual, the
24 officer or other delegated agent within the law enforcement
25 agency shall check relevant databases before or concurrently

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1 with initiating the request for telecommunications device call
2 location information from a wireless telecommunications
3 provider. This action may include:

4 (1) checking the federal bureau of
5 investigation's national crime information center to identify
6 if the person making the call for emergency services or
7 initiating the request for emergency response has a history of
8 domestic violence or other criminal history suggesting that the
9 request may be pretextual; and

10 (2) checking with the secretary of state's
11 office to identify if the user for whom the call location
12 information is being requested is participating in the address
13 confidentiality program pursuant to Section 40-13-11 NMSA 1978.

14 E. A wireless telecommunications provider may
15 establish protocols by which the provider voluntarily discloses
16 telecommunications device call location information to a law
17 enforcement agency for the purposes outlined in Subsection A of
18 this section.

19 F. No cause of action shall be brought in any court
20 against any wireless telecommunications provider, its officers,
21 employees, agents or other specified persons for providing
22 telecommunications device call location information when acting
23 in good faith and in accordance with the provisions of this
24 section.

25 G. All wireless telecommunications providers

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1 registered to do business in this state, and all resellers of
2 wireless telecommunications services, shall submit emergency
3 contact information to the department of public safety in order
4 to facilitate requests from a law enforcement agency for call
5 location information in accordance with this section, which
6 information shall be updated within forty-eight hours whenever
7 there is a change.

8 H. The department of public safety shall maintain a
9 database containing emergency contact information for all
10 wireless telecommunications providers registered to do business
11 in this state and shall make that information immediately
12 available upon request to facilitate a response to a request
13 from a law enforcement agency for telecommunications device
14 call location information pursuant to this section.

15 I. This section does not prohibit a wireless
16 telecommunications provider from establishing protocols by
17 which the provider voluntarily discloses telecommunications
18 device location information to a law enforcement agency.

19 J. The department of public safety may promulgate
20 by rule criteria for fulfilling the requirements of this
21 section.

22 K. For the purposes of this section:

23 (1) "law enforcement agency" means a certified
24 local or state law enforcement agency, including a local police
25 or sheriff's department, the New Mexico state police and the

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1 motor transportation division of the department of public
2 safety;

3 (2) "law enforcement officer" means a state or
4 municipal police officer, county sheriff, deputy sheriff,
5 conservation officer, motor transportation enforcement officer
6 or other state employee authorized by state law to enforce
7 criminal statutes;

8 (3) "telecommunications device" means a
9 telephone or other electronic device enabling communication
10 utilizing radio waves, light waves or other electromagnetic
11 means;

12 (4) "telecommunications device location
13 information" means information indicating the physical
14 geographical location of a telecommunications device;

15 (5) "wireless telecommunications provider"
16 means a telephone company, transmission company,
17 telecommunications common carrier, telecommunications company,
18 cellular or other wireless telecommunications service company
19 registered to do business in this state; and

20 (6) "wireless telecommunications service"
21 means the transmission of signs, signals, writings, images,
22 sounds, messages, data or other information of any nature by
23 radio, lightwaves or other electromagnetic means.

24 SECTION 2. EMERGENCY.--It is necessary for the public
25 peace, health and safety that this act take effect immediately.

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