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FISCAL IMPACT REPORT

ORIGINAL DATE 02/18/15

SPONSOR Stewart LAST UPDATED _____ HB _____

SHORT TITLE Emergency Wireless Phone Location Info, Stewart SB 524

ANALYST Cerny

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 534

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Public Regulation Commission (PRC)

Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

Senate Bill 524 would require wireless telecommunications providers to provide call location information to law enforcement agencies in an emergency. The Department of Public Safety (DPS) would be required to maintain a “database” containing emergency contact information for all wireless telecommunications providers registered to do business in this state.

The bill also details what law enforcement officers must do to prior to requesting the location information of wireless device from a wireless telecommunications provider. A law enforcement officer must first reasonably ascertain whether the situation involves a serious risk of death or serious physical harm and whether an emergency response is warranted.

Unless the officer determines that the situation requires immediate action, then the law enforcement agency must check with the federal bureau of investigation national crime information center for a criminal background check, as well as the secretary of state’s office to see if the caller is participating in the address confidentiality program before (or concurrently with) initiating contact with the telecommunications provider.

Wireless telecommunications providers may establish protocols for the voluntary disclosure of telecommunications device call location to law enforcement agencies per Section A of the new statute.

The proposed legislation indemnifies wireless telecommunications providers from legal action when providing telecommunications device location information under the provisions of this act if provided in good faith.

All wireless telecommunications providers and resellers of wireless telecommunications services doing business in New Mexico will provide emergency contact information to the DPS which is charged with creating a database to house that information. Any change in emergency contact information from a wireless provider/reseller shall be given to DPS within 24 hours of a change in that information.

Definitions for law enforcement agency, law enforcement officer, telecommunications device, telecommunications device location information, wireless telecommunications provider, and wireless telecommunications service are all provided in Section K of the bill.

The legislation carries an emergency clause and would take effect immediately upon passage.

FISCAL IMPLICATIONS

SB 524 carries no appropriation and would have minimal additional operating impact on agencies.

DPS analysis states: “Fiscal implications would be minimal requiring time of one current DPS FTE to maintain the database or a list of wireless telecommunications providers.”

SIGNIFICANT ISSUES

This bill would make it possible for 911 callers on cell phones to have a more likely chance of being located.

Law enforcement officers must make an assessment of the situation and must reasonably ascertain whether the situation involves a risk of serious risk of death or serious physical harm, and whether an emergency response is warranted before calling the wireless provider for location information. Presumably that assessment would come from the 911 call itself because the officer would not be asking for location information if at the scene. Does this put an undue burden on the officer and the agency?

The agency must also check with the FBI National Crime Information Center for a criminal background check, thus assuming the identity of the caller is sufficiently clear to do so, as well as check with the Secretary of State’s office to see if the caller is a participant in the address confidentiality program. However, information related to the address confidentiality program is only available during daytime hours between Monday and Friday, for twenty hours per week and would not be sufficient to meet the requirements of the bill.

PRC analysis states:

Wireless telecommunications providers are required by the FCC to provide emergency location information for telecommunications devices for E911 purposes. The location information is provided to Public Safety Answering Points (PSAPs) when an emergency call is initiated from a cell phone. Wireless device location information is provided by either global positioning system (GPS) or device triangulation with cell towers depending on the cellular technology used (CDMA or GSM), and is only accurate to within a certain distance. The FCC is currently working with wireless providers to increase the horizontal and eventually vertical axis accuracy of locating a wireless telecommunications device for E911 purposes. This bill would require wireless telecommunications providers to send this location information, which would normally go to a PSAP through the E911 network, to law enforcement officials in New Mexico. As such, it is not clear if there need be any system modifications by wireless telecommunications providers in order to provide the location information as directed to the department of public safety as opposed to PSAPs as required in this bill.

It is not clear if there will be any technical issues with the wireless providers sending device location accuracy information to law enforcement officials as outlined in this bill. Input from wireless telecommunications providers and E911 personnel on this bill would be useful.

It is not clear where this statutory language is to be placed within the New Mexico statutory framework. As such, it is difficult to ascertain if there will be conflicts with other statutes already in place.

DPS analysis states no significant issues with the bill.

ADMINISTRATIVE IMPLICATIONS

The Department of Public Safety would be responsible for creating and maintaining a wireless provider/reseller emergency contact database.

RELATIONSHIP

SB 524, is a near duplicate of this bill but with language changes that resolves some issues noted.

CAC/bb