



Ohio Legislative Service Commission

Bill Analysis

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Am. Sub. S.B. 5*

130th General Assembly

(As Reported by H. Transportation, Public Safety, and Homeland Security)

Sens. Brown and Manning, Schiavoni, Seitz, Kearney, Sawyer, LaRose, Hite, Bacon, Jones, Tavares, Turner, Smith, Uecker, Lehner, Coley, Beagle, Eklund, Patton, Balderson, Widener, Faber, Obhof, Schaffer, Gardner, Hughes, Oelslager, Peterson

BILL SUMMARY

- Prohibits a law enforcement officer or agency from requesting device location information from a wireless service provider without first obtaining a search warrant except in specified emergency situations.
- Requires wireless service providers to provide device location information to law enforcement officers or agencies in specified emergency situations.
- Provides that no cause of action may arise in any Ohio court against a wireless service provider, or its officers, employees, or agents, for providing device location information in direct response to a specific request by a law enforcement officer or agency related to an emergency situation.

CONTENT AND OPERATION

Operation of the bill

The bill provides that, except as otherwise provided in the bill, no law enforcement officer or agency may request device location information from a wireless service provider without first obtaining a search warrant pursuant to Criminal Rule 41.¹ In the case of an emergency situation that a law enforcement officer or agency

* This analysis was prepared before the report of the House Transportation, Public Safety, and Homeland Security Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

¹ R.C. 2921.231(B)(1).

reasonably believes involves imminent danger of death or serious physical injury to any person, the officer or agency may request device location information from a wireless service provider without first obtaining a search warrant pursuant to Criminal Rule 41. The officer or agency must inform the wireless service provider that an emergency situation exists and that the request for device location information is being made due to the emergency situation.²

The bill requires a wireless service provider, on request, to provide device location information to a law enforcement officer or agency concerning a user of a wireless service device in the following circumstances:³

(1) In an emergency situation to enable the officer or agency to respond to a call for emergency service by a subscriber, customer, or user of wireless service;

(2) In an emergency situation that the officer or agency reasonably believes involves imminent danger of death or serious physical injury to any person, where disclosure of communications relating to the emergency is required without delay.

The bill prohibits any cause of action from arising in any court of this state against a wireless service provider, or its officers, employees, or agents, for providing device location information to a law enforcement officer or agency if the wireless service provider, or its officers, employees, or agents, provide the information in direct response to a specific request by a law enforcement officer or agency that the officer or agency has determined is necessary to facilitate law enforcement operations arising from an emergency situation that meets the criteria for the two emergency situations prescribed in the bill. No further immunity is granted under this provision.⁴

Definitions

As used in the bill:⁵

"Device location information" means information indicating the geographical location of a wireless service device.

"Law enforcement agency" means an organization or unit made up of law enforcement officers.

² R.C. 2921.231(B)(2).

³ R.C. 2921.231(C)(1) and (2).

⁴ R.C. 2921.231(D).

⁵ R.C. 2921.231(A)(1) to (4).



"Law enforcement officer" means any of the following:⁶

(1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority, or state highway patrol trooper;

(2) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(3) A mayor, in the mayor's capacity as chief conservator of the peace within the mayor's municipal corporation;

(4) A member of an auxiliary police force organized by county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission;

(5) A person lawfully called to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;

(6) A person appointed by a mayor as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;

(7) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;

(8) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor;

(9) A veterans' home police officer;

(10) A member of a police force employed by a regional transit authority;

(11) A special police officer employed by a port authority;

(12) The House of Representatives Sergeant at Arms if the House of Representatives Sergeant at Arms has arrest authority and an Assistant House of Representatives Sergeant at Arms;

(13) The Senate Sergeant at Arms and an Assistant Senate Sergeant at Arms;

⁶ R.C. 2921.231(A)(3), by reference to R.C. 2901.01(A)(11) (not in the bill).



(14) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation.

"Wireless service" means federally licensed commercial mobile service as defined in the "Telecommunications Act of 1996," 110 Stat. 61, 151, 153, 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3.⁷

"Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.⁸

HISTORY

| ACTION | DATE |
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| Introduced | 02-12-13 |
| Reported, S. Public Safety, Local Gov't & Veterans Affairs | 03-21-13 |
| Passed Senate (32-1) | 04-17-13 |
| Reported, H. Transportation, Public Safety & Homeland Security | --- |

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⁷ R.C. 2921.213(A)(4), by reference to R.C. 4927.01(A)(17) (not in the bill).

⁸ R.C. 2921.213(A)(4), by reference to R.C. 4927.01(A)(18) (not in the bill).

