

No. 2014-181

AN ACT

SB 1290

Requiring the disclosure of mobile communications tracking information; and providing for immunity.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Kelsey Smith Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Investigative or law enforcement officer." The term shall have the same meaning as that in 18 Pa.C.S. § 5702 (relating to definitions).

"Mobile communications tracking information." Information generated by a communication common carrier or a communication service which indicates the location of an electronic device supported by the communication common carrier or communication service.

"Wireless telecommunications service provider." A provider of commercial mobile radio services, as that term is defined in section 332(d) of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 332(d)), including all broadband personal communications services, wireless radio telephone services, geographic area specialized and enhanced specialized mobile radio services and incumbent wide area specialized mobile radio licensees, which offers real-time, two-way voice service interconnected with the public switched telephone network and is doing business in this Commonwealth.

"Written form." A form that includes all of the following:

- (1) The name of the investigative or law enforcement officer making a request for disclosure.
- (2) The jurisdiction of the investigative or law enforcement officer.
- (3) A description of the request stating the need for disclosure.
- (4) The signature of the investigative or law enforcement officer and a declaration that the disclosure of mobile communications tracking information is needed in an emergency situation that involves the risk of death or serious physical harm to a person who possesses a telecommunications device and requires disclosure without delay of information relating to the emergency.

Section 3. Disclosure of mobile communications tracking information in emergency situations.

(a) Disclosure.—Notwithstanding 18 Pa.C.S. Ch. 57 (relating to wiretapping and electronic surveillance), upon receipt of a written form from an investigative or law enforcement officer, a wireless telecommunications service provider shall provide the requested mobile communications tracking

information concerning the device to the requesting investigative or law enforcement officer.

(b) Protocols.—A wireless telecommunications service provider shall establish protocols consistent with this act that govern its response to a request from an investigative or law enforcement officer under this section.

Section 4. Immunity

No cause of action shall lie in any court against a wireless telecommunications service provider, its officers, employees, agents or other specified persons for providing mobile communications tracking information to an investigative or law enforcement officer as required by this act.

Section 5. Effective date.

This act shall take effect in 60 days.

APPROVED—The 22nd day of October, A.D. 2014

TOM CORBETT