

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of 2015 Iowa Acts, House File 447, section 2 [Iowa Code section 34A.16], the Department of Public Safety gives Notice of Intended Action to adopt new Chapter 87, “Wireless Communications Service Provider Database,” Iowa Administrative Code.

Iowa Code chapter 34A established the Enhanced Emergency 911 Telephone Systems (E911 system) and created a mechanism for funding it. The E911 call system allows for requests for emergency law enforcement, fire fighting, medical, ambulance and other emergency services to be transmitted to a public safety agency so that the appropriate service can respond.

Pursuant to 2015 Iowa Acts, House File 447, the proposed chapter will establish a database of contact information for wireless communications service providers. This database will only be used by a law enforcement officer, law enforcement agency, or a public safety answering point (PSAP), and only when there is an emergency situation that involves the risk of death or serious physical harm.

Nearly every person, including both adults and children, has a cell phone or other wireless communications device. These devices automatically communicate with nearby communications towers in order to receive and send information. The system can be queried in order to determine the location of a particular wireless communications device. This location information is transmitted to and stored on the wireless service provider’s system.

The location information is confidential and known only to the service provider. Law enforcement officers are generally only able to obtain access to that information in an investigation by obtaining a court order or subpoena.

However, emergency situations can occur where there is a risk of death or serious physical harm, and a person is unable to use a wireless communications device to get help. In emergency situations where there is a risk of death or serious physical harm, this database will allow law enforcement officers, law enforcement agencies, and PSAPs to make immediate contact with a wireless communications service provider and obtain location information for the cell phone or other wireless communications device to help locate the person. In all other situations, law enforcement will continue to act consistent with state, federal, and constitutional law in accessing and obtaining location information.

Federal law already authorizes the creation and use of this database, and 2015 Iowa Acts, House File 447, and these rules create the specific steps to implement the database in Iowa. 2015 Iowa Acts, House File 447, requires the database of contact information to be maintained by the Department of Public Safety. The law also requires the Department to adopt rules to implement and administer the database. Having a central database administered by the Department allows the wireless communications service providers to supply their contact information to the Department. The Department can then make that contact information available statewide to local law enforcement officers, law enforcement agencies and PSAPs 24 hours a day. The requirements of 2015 Iowa Acts, House File 447, and these rules are consistent with federal law and will not add any new requirements or burdens to the wireless communications service providers.

There will not be any increase in costs to create and maintain the database. There is no cost to the law enforcement officer, law enforcement agency, or PSAP to access the database. The wireless service providers will be required to provide and maintain current contact information which can be used to contact their staff 24 hours a day when cell phone location information is needed, and there will be no additional cost to the service providers.

These rules will further the goals of making Iowa a safe and prosperous place to live and enhancing the health, safety and welfare of all persons in Iowa.

A public hearing on these proposed rules will be held on Tuesday, October 20, 2015, at 10 a.m. in the first floor public conference room (Room 125) of the Oran Pape Building, 215 East 7th Street, Des Moines, Iowa. Persons may present their views orally or in writing at the public hearing.

In addition, any written comments or information regarding these proposed rules may be directed to the Agency Rules Administrator by mail to Agency Rules Administrator, Iowa Department of Public Safety, 215 East 7th Street, Des Moines, Iowa 50319, or by electronic mail to admrule@dps.state.ia.us by 4:30 p.m. on October 20, 2015.

Any fiscal impact is expected to be minimal and less than \$100,000 annually or \$500,000 during the next five years.

The Department does not have the authority to waive requirements established by statute.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement 2015 Iowa Acts, House File 447 [Iowa Code section 34A.16].

The following amendment is proposed.

Adopt the following new 661—Chapter 87:

CHAPTER 87

WIRELESS COMMUNICATIONS SERVICE PROVIDER DATABASE

661—87.1(34A) Wireless communications service provider database established. The wireless communications service provider database is established in the department of public safety. All wireless communications service providers authorized to do business in the state of Iowa, or submitting to the jurisdiction of the state of Iowa, shall submit current contact information to the department of public safety in order to facilitate requests from law enforcement officers, law enforcement agencies, and public safety answering points (PSAPs), so that law enforcement officers, law enforcement agencies and PSAPs can promptly obtain location information concerning a cell phone or other wireless communications device in emergency situations.

661—87.2(34A) Definitions. The following definitions apply to rules 661—87.1(34A) through 661—87.6(34A):

“Department” means the Iowa department of public safety.

“Law enforcement officers” means:

1. Peace officer members of the department of public safety as defined in Iowa Code chapter 80 and section 801.4(11).
2. Sheriffs and their regular deputies who are subject to mandated law enforcement training.
3. Police chiefs and police officers of cities.

“Public safety answering point” or *“PSAP”* means the same as defined in Iowa Code section 34A.2(16).

661—87.3(34A) Administration of database. The database is administered by the division of intelligence within the department. The information in the database shall only be available to law enforcement officers, law enforcement agencies, and PSAPs and only as authorized in 2015 Iowa Acts, House File 447 [Iowa Code section 34A.16], and these rules.

661—87.4(34A) Confidentiality. All information and records in the wireless communications service provider database maintained by the department and all inquiries and results of inquiries to the service providers are confidential records pursuant to Iowa Code section 22.7(5) and chapter 692 and any other applicable federal or state laws or rules.

661—87.5(34A) Database requirements.

87.5(1) A wireless communications service provider shall provide the following information for the database:

- a. Company name of the provider;
- b. Physical address;
- c. Mailing address;
- d. Name of the point of contact for the provider;
- e. Phone number and alternate phone number for the point of contact, which will be answered 24 hours a day, 7 days a week, by a person or persons who can promptly provide the location information of the cell phone or other wireless communications device upon the request of the department or other law enforcement officer, law enforcement agency, or PSAP;
- f. Fax number; and
- g. E-mail address.

87.5(2) Each wireless communications service provider shall immediately provide the department with any updates or changes to the information required in 87.5(1). On or before June 15 of each year, each wireless communications service provider shall confirm to the department the provider's information for the database.

87.5(3) The information required in 87.5(1) shall be submitted to the department by at least one of the following:

- a. E-mail: intinfo@dps.state.ia.us.
- b. Fax: (515)725-6320, Attn: Division of Intelligence, Subject: Wireless Communications Provider contact information.
- c. U.S. mail: Iowa Department of Public Safety, Division of Intelligence, Oran Pape Building, 215 East 7th Street, Des Moines, Iowa 50319-0049.

661—87.6(34A) Procedures to request provider information. Upon a determination by a law enforcement officer, law enforcement agency, or PSAP that location information for a cell phone or other wireless communications device is required, the law enforcement officer, law enforcement agency, or PSAP shall contact Iowa state patrol communications to request the contact information for the wireless communications systems provider.

These rules are intended to implement 2015 Iowa Acts, House File 447 [Iowa Code section 34A.16].