

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed

Pursuant to the authority of Iowa Code section 34A.16 [2015 Iowa Acts, House File 447, section 2], the Department of Public Safety hereby adopts 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, this chapter establishes a database of contact information for wireless communications service providers. This database will only be available to law enforcement agencies or a public safety answering point (PSAP), and only in situations where 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 agencies 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 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 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 do 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 agency or PSAP to access the database. The wireless service providers are 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 is 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.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 30, 2015, as **ARC 2170C**. A public hearing was held on October 20, 2015, in Room 125 of the Oran Pape Office Building, Des Moines, Iowa. No members of the public attended the hearing, and no public comments were received at the hearing.

A comment was received on October 12, 2015, from the Iowa Department of Transportation (DOT), which requested that DOT motor vehicle enforcement officers be added to the definition of “law

enforcement officer” for purposes of the rule. The term “law enforcement officer” was included in 2015 Iowa Acts, House File 447; however, the term is not part of the federal regulations. To avoid confusion and to ensure that these rules are consistent with federal law, the references to “law enforcement officer” in rules 661—87.1(34A), 661—87.3(34A) and 661—87.6(34A) and in paragraph 87.5(1)“e” and the definition of “law enforcement officer” in rule 661—87.2(34A) have not been adopted. The term “law enforcement agency” remains in the chapter.

The database is primarily intended to be accessible by agencies that have Public Safety Answering Point (PSAPs), or in other words, emergency 911 dispatchers. Those agencies that either have their own dispatch centers or that combine with other agencies to form a joint dispatch center are included. These agencies also have primary law enforcement authority for emergency situations in their jurisdictions.

People routinely call the nearest E911 dispatch center to report an emergency. The purpose of the wireless provider database created by 2015 Iowa Acts, House File 447, is for the E911 dispatchers to quickly obtain the cell phone provider information and then contact the provider to have the provider track the subscriber’s cell phone location. That location information is then provided by the PSAP to the law enforcement and other emergency response agencies (fire, ambulance) that are needed to respond in that situation. It is crucial to the success of 2015 Iowa Acts, House File 447, to create the centralized database so that the dispatchers are the primary point of contact to access the database and then coordinate with and disseminate the location information to the appropriate agencies and emergency responders.

However, it should be noted that most of the situations noted in the DOT comment would not constitute an emergency situation that would authorize the obtaining of the cell phone location, such as stopping a commercial motor vehicle in the course of the DOT’s statutory duties and discovering human smuggling. Likewise, persons who are lost or stranded in a weather event generally have the ability to use a cell phone to make contact and obtain assistance. Even then, the cell phone call is going to go to the nearest E911 dispatch center. These rules as adopted do not change the fact that the assistance of DOT motor vehicle enforcement officers can be requested as appropriate, just as it may be appropriate to ask for the assistance of the officers of the Department of Natural Resources or the public safety officers of a Regents’ institution. The comment submitted by the DOT is respectfully acknowledged.

The Department of Public Safety adopted these rules on December 7, 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 Iowa Code section 34A.16 [2015 Iowa Acts, House File 447].

These rules will become effective February 10, 2016.

The following amendment is adopted.

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 agencies and public safety answering points (PSAPs), so that 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.

“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 agencies and PSAPs and only as authorized in 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 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 agency or PSAP that emergency location information for a subscriber’s cell phone or other wireless communications device is required, the 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 Iowa Code section 34A.16.

[Filed 12/7/15, effective 2/10/16]

[Published 1/6/16]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 1/6/16.