



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-1116/1  
MJW:cdc&wlj

## 2023 SENATE BILL 890

January 5, 2024 - Introduced by Senators JAMES, BALLWEG, JACQUE and WANGGAARD, cosponsored by Representatives KITCHENS, DITTRICH, DONOVAN, GUNDRUM, MURPHY, MURSAU, O'CONNOR and PENTERMAN. Referred to Committee on Judiciary and Public Safety.

**AN ACT** *to amend* 968.373 (7) (a), 968.373 (7) (b), 968.373 (7) (c) and 968.373 (8)

(b) (intro.); and *to create* 165.25 (21), 968.373 (8) (b) 3. and 968.373 (8s) of the statutes; **relating to:** emergency communications device location information.

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### ***Analysis by the Legislative Reference Bureau***

Under current law, a warrant is generally required for a law enforcement officer to track or obtain the location of a wireless communications device. However, there is an exception that states that a law enforcement officer may seek, and a wireless communications provider may provide, without a warrant, device location information if the customer or subscriber consents or if an emergency involving the danger of death or serious physical injury to any person exists and disclosure of the location information is relevant to preventing the death or injury or to mitigating the injury.

This bill provides that a wireless communications provider must provide the device location information to law enforcement without a warrant if the customer or subscriber consents to the disclosure; if the provider believes in good faith that an emergency involving the danger of death or serious physical injury to any person exists and that disclosure of the location is relevant to preventing the death or injury or to mitigating the injury; or if the provider receives a written request from a law enforcement agency stating that the disclosure of device location information is needed to respond to a call for emergency services or to an emergency situation

**SENATE BILL 890****SECTION 1**

that involves the danger of death or serious physical injury to any person and disclosure of device location information is necessary to prevent or mitigate that danger.

Under current law, a wireless communications provider is immune from civil liability for providing customer information in accordance with a warrant or the exception described above. The bill also provides that the wireless communications provider is immune from criminal liability for providing such information.

Additionally, the bill requires wireless communications providers to provide emergency contact information for such requests to the Department of Justice on an annual basis and requires DOJ to maintain a database of the information and provide the information to law enforcement agencies and 911 call centers to facilitate requests from law enforcement agencies.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 165.25 (21) of the statutes is created to read:

165.25 (21) MAINTAIN A DATABASE OF EMERGENCY CONTACT INFORMATION FOR PROVIDERS OF ELECTRONIC COMMUNICATION SERVICES. Maintain a database of electronic communication services provider emergency contact information submitted under s. 968.373 (8s) in order to facilitate a request from a law enforcement agency or tribal law enforcement agency for information under s. 968.373, and distribute the information maintained under this subsection on a quarterly basis, or immediately as changes occur, to all law enforcement agencies, tribal law enforcement agencies, and public safety answering points in this state.

**SECTION 2.** 968.373 (7) (a) of the statutes is amended to read:

968.373 (7) (a) A person on whom a warrant issued under sub. (4) is served is immune from civil or criminal liability for acts or omissions in providing records or information, facilities, or assistance in accordance with the terms of the warrant.

**SECTION 3.** 968.373 (7) (b) of the statutes is amended to read:

968.373 (7) (b) A person who discloses the location of a communications device

**SENATE BILL 890**

under sub. (8) (b) is immune from civil or criminal liability for the acts or omissions in making the disclosure in accordance with sub. (8) (b).

**SECTION 4.** 968.373 (7) (c) of the statutes is amended to read:

968.373 (7) (c) No cause of action or criminal action may arise against any provider of electronic communication service, or its officers, employees, or agents or other persons specified in the court order under sub. (5), for providing information, facilities, or assistance in accordance with the terms of a court order under sub. (5).

**SECTION 5.** 968.373 (8) (b) (intro.) of the statutes is amended to read:

968.373 (8) (b) (intro.) A provider of electronic communication service ~~may~~ shall disclose the location of a communications device without a warrant if any of the following applies:

**SECTION 6.** 968.373 (8) (b) 3. of the statutes is created to read:

968.373 (8) (b) 3. The provider of electronic communication service receives a written request from a law enforcement agency stating that the disclosure of device location information is needed to allow a law enforcement agency to respond to a call for emergency services or to an emergency situation that involves the danger of death or serious physical injury to any person and disclosure of device location information is necessary to prevent or mitigate that danger.

**SECTION 7.** 968.373 (8s) of the statutes is created to read:

968.373 (8s) EMERGENCY CONTACT INFORMATION. Any provider of electronic communication services considered to be doing business in this state under sub. (8m) shall submit its emergency contact information to the department of justice to facilitate a request for information made by a law enforcement agency or tribal law

**SENATE BILL 890****SECTION 7**

enforcement agency under this section no later than 60 days after the effective date of this subsection .... [LRB inserts date], annually by January 1 of each year thereafter, and as soon as possible any time a change occurs to the emergency contact information most recently submitted to the department of justice.

**(END)**