

NOTE: This Conference Committee Report Brief reflects the agreement reached on March 26, 2009 however the version of the bill signed by the Governor on April 17th, 2009 contained errors affecting the content of the bill. Senate Sub. for HB 2126 was repealed by 2009 SB 336 which enacted the Kelsey Smith Act as described below.

SESSION OF 2009

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2126**

As Agreed to March 26, 2009

Brief*

Senate Sub. for HB 2126 would enact the Kelsey Smith Act, which would require wireless telecommunications carriers to provide information about the location of the telecommunications device of a user of the carriers' services, if requested by a law enforcement agency in order to respond to a call for emergency services or to respond in an emergency situation that involves risk of death or serious physical harm. Wireless carriers would be authorized, but not required, to establish protocols for voluntary disclosure of call location information. The provision of information as required by the bill would not create a cause of action against a telecommunications carrier acting in good faith and in accordance with the provisions of the Act.

To facilitate requests from law enforcement for call location information, the Kansas Bureau of Investigation would be required to obtain the contact information for all wireless telecommunications carriers doing business in Kansas, and to distribute that information to public safety answering points on a quarterly basis or anytime a change in the information occurred. The Bureau would be required to adopt rules and regulations to implement the Act by July 1, 2010.

The bill would take effect upon publication in the *Kansas Register*.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/klrd>

Conference Committee Action

The Conference Committee removed the provisions related to Enhanced 911 for Wireless Service and VoIP (Substitute for SB 48).

Background

The Senate Committee amended the contents of Substitute for SB 48 into HB 2126, which also was amended to create the Kelsey Smith Act. The Senate Committee amendments additionally would:

- Clarify the circumstances under which location information could be provided under this Act to a law enforcement agency;
- Allow wireless telecommunications carriers to establish their own protocols for voluntarily disclosing call location information; and
- Require the Kansas Bureau of Investigation to collect and distribute contact information for wireless telecommunications carriers.

Kelsey Smith Act

The Senate Committee received testimony in support of HB 2126, as passed by the House, from Representative Rob Olson, Greg and Missey Smith, and representatives of the League of Kansas Municipalities, Sprint, Verizon, and the Johnson County Sheriff's Office. A representative of AT&T provided neutral testimony on the bill.

The House-passed version of HB 2126 would require a request for location information prior to its release to a law enforcement official or agency; specify that location information

resulting from a “ping locate” be released in cases where there is danger of death or serious injury; and limit recourse against a telecommunication service provider who furnishes information in compliance with the act.

Introduction of HB 2126 was requested by Representative Rob Olson. During the House Committee hearing on the bill Representative Olson; the parents of Kelsey Smith, who was abducted and murdered in 2007; and a representative of Overland Park presented testimony in support of the bill. Representative Olson suggested amendments to the introduced version of the bill, and representatives of AT&T and Sprint, as well as the Johnson County Sheriff, presented testimony in support of the proposed amendments.

Enhanced 911 for Wireless Service and VoIP

Sub. for SB 48 was in the House Committee on Energy and Utilities at the time the Senate Committee amended it into HB 2115. The Senate bill had been heard, but not acted upon, by the House Committee.

The Senate Committee of the Whole amended Sub. for SB 48 to direct the Joint Committee to also study and make recommendations on appropriate uses of the Wireless Enhanced 911 Grant Fund.

The Senate Utilities Committee recommended Sub. for SB 48 after discussing the need to look at a broad range of issues in order to develop policy to help ensure future 911 services in Kansas are appropriately funded and provide state of the art service across the State.

SB 48 was introduced by the Senate Utilities Committee at the request of the Kansas Association of Counties, whose representative testified that the introduced version of the bill would extend the current funding mechanism for enhanced 911 for wireless and VoIP service for ten years and would provide for additional audits during that timeframe, would increase to

85,000 the upper population limit for municipalities eligible for grant funds, and would modify the definition of allowable uses of 911 fee moneys to cover equipment upgrades for the next generation of E911 systems.

Other proponents of the introduced version of the bill included Johnson County Emergency Communications, Sedgwick County Department of Emergency Communications, Kansas Legislative Policy Group, a Morton County Commissioner, Kansas Sheriffs Association, Kansas Chapter of Association of Public Safety Communication Officials International, Kansas Emergency Management Association, Kansas Statewide Interoperability Executive Committee, Kansas County Commissioners Association, Kansas Association of Chiefs of Police, Kansas Peace Officers Association, Kansas Emergency Medical Services Association, and Johnson County Police Chiefs' and Sheriffs' Association, and a Miami County Commissioner.

Organizations providing neutral testimony on the bill included the League of Kansas Municipalities, Embarq, Verizon Wireless and Sprint. There was no testimony in opposition to the bill.

The fiscal notes prepared by the Division of the Budget on the introduced versions of HB 2126 and SB 48 are not relevant to the substitute bill.