



HOUSE BILL 213: Kelsey Smith Act.

2021-2022 General Assembly

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| Committee: | House Rules, Calendar, and Operations of the House | Date: | May 10, 2021 |
| Introduced by: | Reps. Hurley, McNeill, Carter, C. Smith | Prepared by: | Susan Sitze |
| Analysis of: | PCS to Second Edition H213-CSSA-25 | | Staff Attorney |

OVERVIEW: *House Bill 213 would require a wireless service provider to make call location data available to law enforcement in certain emergency circumstances.*

BILL ANALYSIS:

Section 1 of the bill would name the act the "Kelsey Smith Act".

Section 2 of the bill would make wireless call location data available to a law enforcement agency or a public safety answering point (PSAP) without a warrant, in the event of an emergency situation that involves an imminent risk of death or serious physical harm. "Imminent" means the length of time necessary to comply with otherwise applicable provisions of law would significantly reduce the chance of preventing death or serious injury.

The request must be made by the highest ranking person on duty for the law enforcement agency or PSAP and is limited to only the amount of data reasonably necessary to prevent the imminent death or serious physical harm.

Within 72 hours of the initial request for call location data, the law enforcement agency shall request an order from the superior court approving the release of the call location data. The court may issue such a finding if it finds that, at the time of the request for call location data, an emergency situation involving an imminent risk of death or serious physical harm existed and only the amount of data reasonably necessary to prevent the imminent death or serious physical harm was requested.

Call location data obtained pursuant to this act would not be admissible as evidence in a criminal prosecution unless a finding of emergency circumstances is made by a superior court or the data is otherwise admissible under another law or exception.

A wireless service provider would:

- Be required to provide call location data to a law enforcement agency, or a PSAP without a warrant upon request of the law enforcement agency or PSAP.
- Be allowed to establish procedures for the voluntary disclosure of call location data.
- Be immune to a civil or criminal action for complying with this act in good faith reliance of representations made by law enforcement.
- Be required to submit, and when appropriate update, emergency contact information to the State Bureau of Investigation.

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Call location data does not include the contents of a communication; but does include global positioning system (GPS) information, triangulation, and per-call measurement data.

PSAP is the public safety agency that receives an incoming 911 call, and dispatches appropriate public safety agencies to respond.

EFFECTIVE DATE: This act would become effective July 1, 2021.