

1 HB1  
2 171041-6  
3 By Representatives Hanes, Whorton (R), Whorton (I), Wadsworth,  
4 Fincher and Ledbetter  
5 RFD: State Government  
6 First Read: 15-AUG-16

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8 SYNOPSIS: This bill would require a wireless  
9 communications service provider to provide location  
10 information to a law enforcement agency, upon  
11 request, in an emergency situation involving a risk  
12 of death or serious bodily harm.

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14 A BILL  
15 TO BE ENTITLED  
16 AN ACT

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18 To require a wireless communications service  
19 provider to provide location information to a law enforcement  
20 agency, upon request, in an emergency situation involving a  
21 risk of death or serious bodily harm.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. (a) This act shall be known and cited as  
24 the Kelsey Smith Act.

25 (b) Upon request of a law enforcement officer as  
26 defined in Rule 1.4 of the Alabama Rules of Criminal  
27 Procedure, who is on duty and acting in the course of his or

1 her official duties at the time of the request, a wireless  
2 communications service provider shall provide call location  
3 information concerning the telecommunications device of a user  
4 to the requesting law enforcement officer as soon as  
5 practicable after receipt of the request and after a showing  
6 that an emergency situation exists at the time of the request  
7 by the law enforcement officer.

8 (c) A law enforcement officer shall not request  
9 information pursuant to this section unless the request is  
10 made for the specific purpose of responding to a call for  
11 emergency services or in an emergency situation that involves  
12 the risk or threat of death or serious physical harm.

13 (d) A wireless communications service provider may  
14 establish protocols by which the carrier voluntarily discloses  
15 call location information.

16 (e) A wireless communications service provider, or  
17 any employee thereof, that provides information regarding call  
18 location information is immune from civil liability if acting  
19 in a reasonable manner and pursuant to this section.

20 (f) Pursuant to this section or as authorized by  
21 Section 15-5-40, Code of Alabama 1975, a law enforcement  
22 officer, while located in the State of Alabama may monitor or  
23 obtain the location information of a device from a wireless  
24 communications provider no matter the location of the device,  
25 even if such device is transported throughout or outside of  
26 the State of Alabama, subject to any limitation or prohibition  
27 provided by federal law.

1 (g) The Alabama State Law Enforcement Agency shall  
2 obtain contact information from all wireless service providers  
3 authorized to do business in this state to facilitate a  
4 request from a law enforcement agency for call location  
5 information under this section. The Alabama State Law  
6 Enforcement Agency shall disseminate the contact information  
7 to each state and local law enforcement agency in this state.

8 (h) The provisions of 18 U.S.C. §2707, as adopted by  
9 Section 15-5-40, Code of Alabama 1975, may be applicable to  
10 this section as the person making the request, in addition to  
11 any other appropriate law or rule.

12 (i) All such requests pursuant to this section shall  
13 either be in writing and signed by the requesting law  
14 enforcement officer, or, if made orally, the request shall be  
15 documented at the earliest possible time thereafter and signed  
16 by the requesting law enforcement officer. The original  
17 request or documented request, or a copy thereof, shall be  
18 retained by the custodian of records for the law enforcement  
19 agency where the requesting law enforcement officer is  
20 employed. The documentation shall not be destroyed and shall  
21 be held as a permanent record. The open records requirements  
22 of Section 36-12-40, Code of Alabama 1975, shall apply only to  
23 the name of the law enforcement officer making the request and  
24 the date the request was made, and only after the conclusion  
25 of the criminal investigation or criminal prosecution. All  
26 requests retained pursuant to this section shall be available  
27 to the Attorney General, the Secretary of the Alabama State

1 Law Enforcement Agency, or the local district attorney at any  
2 time.

3 Section 2. This act shall become effective on the  
4 first day of the third month following its passage and  
5 approval by the Governor, or its otherwise becoming law.