

1 HB5
2 178074-3
3 By Representative Hanes
4 RFD: Public Safety and Homeland Security
5 First Read: 07-FEB-17
6 PFD: 10/13/2016

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

(b) Upon request of a law enforcement officer as defined in Rule 1.4 of the Alabama Rules of Criminal Procedure, who is on duty and acting in the course of his or her official duties at the time of the request, a wireless communications service provider shall provide call location information concerning the telecommunications device of a user to the requesting law enforcement officer as soon as practicable after receipt of the request and after a showing that an emergency situation exists at the time of the request by the law enforcement officer.

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

1 (d) A wireless communications service provider may
2 establish protocols by which the carrier voluntarily discloses
3 call location information.

4 (e) A wireless communications service provider, or
5 any employee thereof, that provides information regarding call
6 location information is immune from civil and criminal
7 liability if acting in a reasonable manner and pursuant to
8 this section.

9 (f) Pursuant to this section or as authorized by
10 Section 15-5-40, Code of Alabama 1975, a law enforcement
11 officer, while located in the State of Alabama may monitor or
12 obtain the location information of a device from a wireless
13 communications provider no matter the location of the device,
14 even if such device is transported throughout or outside of
15 the State of Alabama, subject to any limitation or prohibition
16 provided by federal law.

17 (g) The Alabama State Law Enforcement Agency ~~shall~~
18 may obtain contact information from all wireless service
19 providers authorized to do business in this state to
20 facilitate a request from a law enforcement agency for call
21 location information under this section. The Alabama State Law
22 Enforcement Agency shall disseminate the contact information
23 to each state and local law enforcement agency in this state.

24 (h) The provisions of 18 U.S.C. §2707, as adopted by
25 Section 15-5-40, Code of Alabama 1975, may be applicable to

1 this section as the person making the request, in addition to
2 any other appropriate law or rule.

3 (i) All such requests pursuant to this section shall
4 either be in writing and signed by the requesting law
5 enforcement officer, or, if made orally, the request shall be
6 documented at the earliest possible time thereafter and signed
7 by the requesting law enforcement officer. The original
8 request or documented request, or a copy thereof, shall be
9 retained by the custodian of records for the law enforcement
10 agency where the requesting law enforcement officer is
11 employed. The documentation shall not be destroyed and shall
12 be held as a permanent record. The open records requirements
13 of Section 36-12-40, Code of Alabama 1975, shall apply only to
14 the name of the law enforcement officer making the request and
15 the date the request was made, and only after the conclusion
16 of the criminal investigation or criminal prosecution. All
17 requests retained pursuant to this section shall be available
18 to the Attorney General, the Secretary of the Alabama State
19 Law Enforcement Agency, or the local district attorney at any
20 time.

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

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 02-MAR-17, as amended.

Jeff Woodard
Clerk

Senate	17-MAY-17	Amended and Passed
House	19-MAY-17	Concurred in Senate Amendment