

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H

D

HOUSE BILL 213
PROPOSED COMMITTEE SUBSTITUTE H213-PCS10308-SA-15

Short Title: Kelsey Smith Act.

(Public)

Sponsors:

Referred to:

March 4, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE PROVISION OF TELECOMMUNICATIONS DEVICE
3 LOCATION INFORMATION TO LAW ENFORCEMENT UNDER CERTAIN
4 EMERGENCY CIRCUMSTANCES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. This act shall be known as the Kelsey Smith Act.

7 SECTION 2. Chapter 15A of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 16C.

10 "Provision of Wireless Call Location Data to Law Enforcement.

11 "§ 15A-300.10. Provision of call location data by wireless service provider to law
12 enforcement.

13 (a) The following definitions apply in this section:

14 (1) Call location data. – Global positioning system, triangulation, and per-call
15 measurement data indicating the location of a telecommunications device.
16 Call location data does not include the contents of any communication made
17 using a telecommunications device.

18 (2) Imminent. – With respect to a risk of death or serious physical harm, means
19 that the length of time necessary to comply with otherwise applicable
20 provisions of law pertaining to obtaining authorization for electronic
21 surveillance would, in the professional judgment of the law enforcement
22 agency based upon generally accepted surveillance and investigation
23 protocols, significantly reduce the chance of preventing death or serious
24 physical harm.

25 (3) Public safety answering point. – Defined in G.S. 143B-1400.

26 (4) Wireless service provider. – A commercial mobile radio service provider, as
27 defined in G.S. 143B-1400, including providers of subscription-based,
28 in-vehicle security service.

29 (b) Upon request of the highest ranking person on duty for the law enforcement agency
30 or a public safety answering point on behalf of a law enforcement agency, a wireless service
31 provider shall provide call location data concerning the telecommunications device of a user to
32 the requesting law enforcement agency or public safety answering point. The highest ranking
33 person on duty for the law enforcement agency or public safety answering point may request data
34 under this section only in an emergency situation that involves an imminent risk of death or
35 serious physical harm at the time of the request and may only request the amount of data
36 reasonably necessary to prevent the imminent death or serious physical harm. Call location data



* H 2 1 3 - P C S 1 0 3 0 8 - S A - 1 5 *

1 obtained pursuant to this section is not admissible as evidence in a criminal prosecution unless a
2 finding of emergency circumstances has been made pursuant to G.S. 15A-300.11 or the data is
3 otherwise admissible under another law or exception.

4 (c) A wireless service provider may establish procedures for voluntary disclosure of call
5 location data.

6 (d) A civil or criminal action may not be brought in any court against any wireless service
7 provider or any other person for providing call location data if the provider acted in good-faith
8 reliance upon the representations of the law enforcement agency or public safety answering point
9 and as required by this section.

10 (e) All wireless service providers registered to do business in the State shall submit
11 emergency contact information to the State Bureau of Investigation in order to facilitate requests
12 from law enforcement agencies for call location data. This information must be submitted
13 annually by June 15 or immediately upon any change in emergency contact information.

14 (f) The State Bureau of Investigation shall maintain a database containing emergency
15 contact information for all wireless service providers registered to do business in the State and
16 shall make the information readily available upon request to all public safety answering points
17 located in the State.

18 **"§ 15A-300.11. Finding of emergency circumstances.**

19 (a) A law enforcement agency that requests call location data pursuant to
20 G.S. 15A-300.10, or on whose behalf call location data has been requested, may apply to the
21 superior court for a finding that emergency circumstances existed. A superior court judge may
22 enter an ex parte ruling regarding the call location data if the judge finds that, at the time of the
23 request for call location data, both of the following conditions were met:

24 (1) An emergency situation that involved an imminent risk of death or serious
25 physical harm existed.

26 (2) Only the amount of data reasonably necessary to prevent the imminent death
27 or serious physical harm was requested.

28 (b) Application to the superior court pursuant to this section must be made within 72
29 hours of the initial request for call information data from a wireless service provider."

30 **SECTION 3.** This act becomes effective July 1, 2021.