

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 213
Committee Substitute Favorable 4/21/21
PROPOSED COMMITTEE SUBSTITUTE H213-PCS40590-SA-25

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, the length
19 of time necessary to comply with otherwise applicable provisions of law
20 pertaining to obtaining authorization for electronic surveillance would, in the
21 professional judgment of the law enforcement agency based upon generally
22 accepted surveillance and investigation protocols, significantly reduce the
23 chance of preventing death or serious physical harm.

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

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

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



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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) Within 72 hours of requesting call location data from a wireless service provider, the
5 law enforcement agency that requested the call location data, or on whose behalf call location
6 data was requested, shall apply for an order pursuant to G.S. 15A-300.11.

7 (d) A wireless service provider shall establish procedures for voluntary disclosure of call
8 location data.

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

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

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

21 **"§ 15A-300.11. Order approving release of call location data.**

22 (a) A law enforcement agency that requests call location data pursuant to
23 G.S. 15A-300.10, or on whose behalf call location data has been requested, shall apply to the
24 superior court for an order approving the release of call location data due to the existence of
25 emergency circumstances. A superior court judge may enter an ex parte order approving the
26 release of call location data if the judge finds that, at the time of the request for call location data,
27 both of the following conditions were met:

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

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

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

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