

1 HB5
2 178074-1
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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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.

13
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.