

1 **COMMITTEE SUBSTITUTE**

2 **for**

3 **H. B. 2046**

4
5 (By Delegates Perry and P. Smith)

6 (Originating in the Committee on the Judiciary)

7
8 [March 13, 2013]

9
10 A Bill to amend the Code of West Virginia, 1931, as amended,
11 relating to requiring wireless telecommunications carriers to
12 provide location information to law-enforcement agencies in
13 emergencies; permitting wireless communications carriers to
14 establish protocols for disclosure of location information in
15 an emergency; limiting liability of wireless communications
16 carriers when acting in good faith; requiring wireless
17 telecommunications carriers and resellers to provide emergency
18 contact information; requiring the West Virginia State Police
19 to maintain emergency contact database; and, granting
20 rule-making authority.

21 *Be it enacted by the Legislature of West Virginia:*

22 That the Code of West Virginia, 1931, as amended, be amended
23 by adding thereto a new section, designated §15-3-10, to read as
24 follows:

25 **CHAPTER 15. PUBLIC SAFETY.**

1 **ARTICLE 3. COMMUNICATION SYSTEMS FOR POLICE PURPOSES.**

2 **§15-3-10. Disclosure of location information; emergency**
3 **situations.**

4 (a) Upon request of a law-enforcement agency, a wireless
5 telecommunications carrier shall provide location information
6 concerning the telecommunications device of the user to the
7 requesting law-enforcement agency in order to respond to a call for
8 emergency services or in an emergency situation that involves the
9 risk of death or serious physical harm.

10 (b) Notwithstanding any other provision of law to the
11 contrary, nothing in this section prohibits a wireless
12 telecommunications carrier from establishing protocols to respond
13 to a law enforcement agency request for location information in an
14 emergency situation or a call for emergency services.

15 (c) No cause of action shall lie in any court against any
16 wireless telecommunications carrier, its officers, employees,
17 agents or other specified persons for providing location
18 information while acting in good faith and in accordance with the
19 provisions of this section.

20 (d) (1) All wireless telecommunications carriers registered to
21 do business in the State of West Virginia or submitting to the
22 jurisdiction thereof and all resellers of wireless
23 telecommunications services shall submit their emergency contact
24 information to the West Virginia State Police in order to
25 facilitate requests from a law-enforcement agency for location

1 information in accordance with this section. This contact
2 information must be submitted annually by June 15th or immediately
3 upon any change in contact information.

4 (2) The State Police shall maintain a database containing
5 emergency contact information for all wireless telecommunications
6 carriers registered to do business in the State of West Virginia
7 and shall make the information immediately available upon request
8 to all public safety answer points in the state.

9 (e) The Superintendent of the West Virginia State Police shall
10 prescribe and promulgate reasonable rules to fulfill the
11 requirements of this section no later than July 1, 2014.

12 (f) This section shall be known and may be cited as the
13 "Kelsey Smith Act."

NOTE: The purpose of this section is to require wireless telecommunications companies to release location information of a missing person's cell phone in a timely manner to law enforcement in emergency situations, rather than requiring a judge's order. The bill limits a company's liability. The bill also grants rule-making authority.

This section is new; therefore, it has been completely underscored.