

# SECOND ENGROSSMENT

COMMITTEE SUBSTITUTE

for

## **H. B. 2046**

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(BY DELEGATE(S) PERRY AND P. SMITH)

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(Originating in the Committee on the Judiciary)

[March 13, 2013]

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

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

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

**CHAPTER 15. PUBLIC SAFETY.**

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

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

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

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

14       (c) No cause of action shall lie in any court against any  
15       wireless telecommunications carrier or internet account provider,

16 its officers, employees, agents or other specified persons for  
17 providing location information while acting in good faith and in  
18 accordance with the provisions of this section.

19 (d) (1) All wireless telecommunications carriers or internet  
20 account providers registered to do business in the State of West  
21 Virginia or submitting to the jurisdiction thereof and all resellers  
22 of wireless telecommunications services shall submit their  
23 emergency contact information to the West Virginia State Police  
24 in order to facilitate requests from a law-enforcement agency for  
25 location information in accordance with this section. This  
26 contact information must be submitted annually by June 15th or  
27 immediately upon any change in contact information.

28 (2) The State Police shall maintain a database containing  
29 emergency contact information for all wireless telecommunica-  
30 tions carriers or internet account providers registered to do  
31 business in the State of West Virginia and shall make the  
32 information immediately available upon request to all public  
33 safety answer points in the state.

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

37        (f) This section shall be known and may be cited as the

38        “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.