



HOUSE BILL 804: Kelsey Smith Act

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2015-2016 General Assembly

Committee:	Senate Judiciary I	Date:	July 23, 2015
Introduced by:	Reps. Hurley, Glazier, Schaffer, Lambeth	Prepared by:	Susan Sitze
Analysis of:	PCS to First Edition H804-CSSA-84		Committee Counsel

SUMMARY: *House Bill 804 would provide for warrantless access by law enforcement to telecommunications device location information under certain circumstances.*

BILL ANALYSIS:

Section 1 would name the act the "Kelsey Smith Act".

Section 2 would allow a wireless service provider to provide call location information to a law enforcement agency or public safety answering point (PSAP) without a warrant. The agency or PSAP is only allowed to request the information in an emergency situation that involves an imminent risk of death or serious physical harm.

Call location data does not include the contents of any communication made, but does include global positioning system (GPS) information, triangulation and per-call measurement data.

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

Section 3 would allow a law enforcement officer to install and use a pen register or trap and trace device (devices which capture the phone numbers dialed and received) if the law enforcement officer determines both of the following:

- An emergency situation exists that involves immediate danger of death or serious bodily injury to any person that requires the installation and use of a pen register or a trap and trace device before an order authorizing the installation and use can, with due diligence, be obtained.
- There are grounds upon which an order could be entered under current law to authorize the use and installation.

The law enforcement officer must seek an order approving the installation and use within 48 hours. If no order is issued, the use must immediately terminate when the information sought is obtained, the application for an order is denied, or 48 hours have lapsed, whichever occurs first.

Knowing installation of or use by a law enforcement officer without application for an authorizing order within 48 hours shall be a Class 1 misdemeanor.

EFFECTIVE DATE: This act becomes effective December 1, 2015, and applies to offenses committed on or after that date.

O. Walker Reagan
Director



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