1	SECOND ENGROSSMENT
2	COMMITTEE SUBSTITUTE
3	for
4	н. в. 2046
5	
6	(By Delegates Perry and P. Smith)
7	(Originating in the Committee on the Judiciary)
8	
9	[March 13, 2013]
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:

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 or internet account provider shall
- 6 provide location information concerning the telecommunications
- 7 device of the user to the requesting law-enforcement agency in
- 8 order to respond to a call for emergency services or in an
- 9 emergency situation that involves the risk of death or serious
- 10 physical harm.
- 11 (b) Notwithstanding any other provision of law to the
- 12 contrary, nothing in this section prohibits a wireless
- 13 telecommunications carrier or internet account provider from
- 14 establishing protocols to respond to a law enforcement agency
- 15 request for location information in an emergency situation or a
- 16 call for emergency services.
- 17 <u>(c) No cause of action shall lie in any court against any</u>
- 18 wireless telecommunications carrier or internet account provider,
- 19 its officers, employees, agents or other specified persons for
- 20 providing location information while acting in good faith and in
- 21 accordance with the provisions of this section.
- 22 (d) (1) All wireless telecommunications carriers or internet
- 23 account providers registered to do business in the State of West
- 24 Virginia or submitting to the jurisdiction thereof and all
- 25 resellers of wireless telecommunications services shall submit

- 1 their emergency contact information to the West Virginia State
- 2 Police in order to facilitate requests from a law-enforcement
- 3 agency for location information in accordance with this section.
- 4 This contact information must be submitted annually by June 15th or
- 5 <u>immediately upon any change in contact information</u>.
- 6 (2) The State Police shall maintain a database containing
- 7 emergency contact information for all wireless telecommunications
- 8 carriers or internet account providers registered to do business in
- 9 the State of West Virginia and shall make the information
- 10 immediately available upon request to all public safety answer
- 11 points in the state.
- 12 (e) The Superintendent of the West Virginia State Police shall
- 13 prescribe and promulgate reasonable rules to fulfill the
- 14 requirements of this section no later than July 1, 2014.
- 15 (f) This section shall be known and may be cited as the
- 16 "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.