2011 HOUSE POLITICAL SUBDIVISIONS

HB 1205

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1205
January 20, 2011
Job # 13182

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to call location information by a wireless service provider to law enforcement.

Minutes: Handout #1

Rep. Hatelstad: Opened the hearing on HB 1205.

Rep. Delmore: HB 1205 also called the Kelsey Smith Act was inspired by the tragic death of a Kansas teen. The legislation was promoted by Greg and Missy Smith the parents of Kelsey who was kidnapped, raped and murdered in 2007. After Kelsey went missing her family and law enforcement requested that her cell phone company help locate her. It took the cell phone company four days before it complied with the request and Kelsey's body was located less than one hour after they provided the information. If Verizon had complied with the request earlier Kelsey still might not have been saved. They hope this law can be utilized to help save the lives of other victims' and it has. The bill requires wireless telecommunications carriers to provide information about the location of the telecommunications device of a user of the carrier services if requested by a law enforcement agency in order to respond to a call for emergency services or to respond in an emergency situation that involves risk of death or serious physical harm. According to one source 77% of kidnapping victims' are killed within the first three hours of the kidnapping. This bill expedites the process of law enforcement by obtaining the information from the cell phone companies and making it much easier to locate the victim within that three hour window. The major cell phone companies that I have spoken to including Verizon have signed on in support of this bill. I would ask this committee's favorable consideration of the bill. There are several others here to offer their testimony in a more detailed nature. I do have one handout that might give you some background information. (Handout #1).

Wayne Stenehjem, Attorney General of ND: In support of HB 1205. I think this is an important piece of legislation and I hope that you will pass it. Specifically the last section of the bill requires the Bureau of Criminal Investigation to obtain contact information from the wireless providers in ND and get it to the emergency folks across the state. They are happy to participate in that way and will do that without any difficulty. Last session you gave authority in 1260.08.1 to the Attorney General to issue a subpoena to BCI agents in the event of criminal matters. We have used the authority a number of times in dealing with

child pornography and in one case a missing person. This is an added tool for law enforcement to obtain that information from the providers and also does not require there be a criminal investigation being conducted by BCI. It has been helpful to people who have just driven off the road in bad weather and you need to find information to locate where that person is so it is a very important piece of legislation and so I just wanted to appear and lend my support.

Rep. Shirley Meyer: Under current law can they release that now if a law enforcement agency calls a 911 service provider?

Wayne Stenehjem: Maybe or maybe not. Our experience with these providers is they want to be helpful and cooperative but they are nervous about potential liability. That is why they are in support of the legislation. They simply want to have some legislative approval and then the immunity that is granted in Subsection 3 so when they so when they do cooperate they don't have to worry about eventual civil liability when they do so.

Rep. Zaiser: Would I be right to assume this bill releases them of any litigation by law when they cooperate?

Wayne Stenehjem: That is why subsection 3 is good.

Jack McDonald on behalf of Midcontinent Communications: They are in support of this bill.

Jerry Hjelmstad: ND League of Cities: Just want to go on record in support of this tool for local law enforcement officials to deal with emergency situations.

Opposition: None

Neutral: None

Hearing closed.

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1205
January 27, 2011
Job #13564

☐ Conference Committee

Committee Clerk Signature

Minutes: Handout #1

Chairman Johnson: Reopened the hearing on HB 1205. This was on wireless calls. Rep. Delmore gave me the amendments. They wanted to be able to have a public safety answering point to be able to answer calls on 911 number. (See proposed amendment #1).

Do Pass on amendment made by Rep. Maragos: Seconded by Rep. Shirley Meyer:

Voice Vote Carried.

Do Pass As Amended Motion Made By Rep. Beadle; Seconded by Rep. Shirley Meyer:

No discussion.

Vote: 13 Yes 0 No 1 Absent Carrier: Rep. Shirley Meyer:

Hearing closed.

PROPOSED AMENDMENTS TO HOUSE BILL 1205

Page 1, line 9, after "agency" insert "or a public safety answering point on behalf of a law enforcement agency"

Page 1, line 11, after the first "agency" insert "or public safety answering point"

Page 1, line 11, after the second "agency" insert "or public safety answering point"

Page 1, line 22, after "agency" insert "or a public safety answering point on behalf of a law enforcement agency"

Renumber accordingly

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Adopted by the Political Subdivisions Committee

January 27, 2011

VPL 1/28/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1205

Page 1, line 9, after "agency" insert "or a public service answering point on behalf of a law enforcement agency"

Page 1, line 11, after the first "agency" insert "or public service answering point"

Page 1, line 11, after the second "agency" insert "or public service answering point"

Page 1, line 22, after "agency" insert "or a public safety answering point on behalf of a law enforcement agency"

Renumber accordingly

Date: 1-27-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1205

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☐ Do Not Pass ☑ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Maragos Seconded By Rep. Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson			Rep. Kilichowski		
Vice Chairman Hatelstad			Rep. Shirley Meyer		
Rep. Beadle			Rep. Mock		
Rep. Devlin			Rep. Zaiser		
Rep. Heilman					
Rep. Klemin					
Rep. Koppelman					
Rep. Kretschmar					
Rep. Maragos					
Rep. Pietsch					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice Vote carried

Date: 1-27-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1205

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☑ Do Pass ☐ Do Not Pass ☑ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Beadle Seconded By Rep. Meyer

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer	✓	
Rep. Beadle	✓		Rep. Mock	✓	
Rep. Devlin	✓		Rep. Zaiser	✓	
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman					
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 13 No 6

Absent 1

Floor Assignment Rep. Meyer

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1205: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1205 was placed on the Sixth order on the calendar.

Page 1, line 9, after "agency" insert "or a public service answering point on behalf of a law enforcement agency"

Page 1, line 11, after the first "agency" insert "or public service answering point"

Page 1, line 11, after the second "agency" insert "or public service answering point"

Page 1, line 22, after "agency" insert "or a public safety answering point on behalf of a law enforcement agency"

Renumber accordingly

2011 SENATE POLITICAL SUBDIVISIONS

HB 1205

2011 SENATE STANDING COMMITTEE MINUTES

Senate Political Subdivisions Committee
Red River Room, State Capitol

HB 1205
March 11, 2011
15291

☐ Conference Committee

Committee Clerk Signature MJ Wocken

Explanation or reason for introduction of bill/resolution:

Relating to call location information by a wireless service provider to law enforcement.

Minutes: You may make reference to "attached testimony."

Chairman Andrist opened the committee hearing on HB 1205, relating to call location by a wireless service provider to law enforcement.

Representative Lois Delmore, District 43 in Grand Forks; in support of HB 1205. HB 1205 is also called the Kelsey Smith act. It was inspired by the tragic death of a Kansas teen. The legislation was promoted by Greg and Missy Smith the parents of Kelsey, the Johnson county teen who was kidnapped, raped and murdered in 2007. After Kelsey went missing her family and law enforcement requested that her cell phone company help locate her. It took the cell phone company four days before it complied with the request and Kelsey body was located after the request was made. If the company had complied with the request earlier and in Kelsey's place it wouldn't have mattered, she probably still could not have been saved. The Smith's and proponents of the law, argue that it can be utilized to save the lives of other victims and it has. 1205 requires wireless communications carriers to provide information about the location of telecommunication devices, if requested by a law enforcement agency in order to respond to a call for emergency services or to respond in an emergency situation that involves the risk of death or serious physical harm. 77% of kidnapping victims are killed within 3 hours of being taken. This bill expedites the process of law enforcement by obtaining the information from the cell phone companies and making it much easier to locate the victim within that three hour window. It is crucial to law enforcement. The Attorney General's office supports this bill, the major cell phone companies are also supporting this bill, its limited in scope but its' been shown to be effective.

Tom Kelsch:I am here today on behalf of A,T&T. I handed out a letter from Beth Canuteson, the external legislative affairs director for this region for AT&T. AT&T in support for HB 1205. See written testimony.

Chairman Andrist: Tell us exactly how this works. Example given. Does the sheriff or police go immediately to you in an emergency? How fast will this permit it to get the information from the cell phone? **Tom Kelsch:** As far as what their protocol is from the law

enforcement to determine whether it is an emergency situation or not. But assuming that law enforcement has determined that it is an emergency situation, ATT does work with the public , 911 and law enforcement to let them know this is the number that you call. Of course, they would call the local ATT and send them to the center. As long as they have done that and make that statement, ATT is set up to provide them answers within minutes. If it is an emergency situation, so PSAP is indicating that. We have a provision that we ask them to provide something in writing to us within 48 hours to document that.

Senator Andrist: Is just the word of the law enforcement officer, does he have to provide you with some kind of identification so you know that it is him? **Tom Kelsch**: I am not sure how, but they do require either something ahead of time, or some sort agreement within writing in 48 hours after the fact. I assume there is some way to determine that the call is coming from either a police department or 911 operators. I am not exactly sure how they do that.

Senator Andrist: I am trying to get an example of how fast this could work? You can't really tell me. Is there any chance we could get stuck in one of the hoops? **Tom Kelsch**: According to Beth's letter here, they can provide it immediately as soon as they verify that it is coming from an appropriate source; from a standpoint of minutes to get that information to the law enforcement. Of course we have to make sure it is the law enforcement that we're dealing with. **Senator Andrist**: And that will likely take a few minutes, seconds or what? **Tom Kelsch**: To verify? **Senator Andrist**: Yes, to verify that it is law enforcement calling. **Tom Kelsch**: I don't know their process of verification, whether it would be or where they can tell where the call is coming from or they will return your call. There may be some other ways to do it. Perhaps they have set up a system in advance for that, but once they have that verification, my understanding is this center can give them location information assuming their cell phone is active or on. I think the cell phone has to have power in order to send a signal out to the towers and then it's' bouncing back and forth and that is how they pick it up. Either being used or on and then the signal can be relayed.

Senator Olafson: I assume that this National Compliance Center can only locate ATT subscribers so, what about the other cell phone companies? Do they have similar system or is this just exclusive to ATT subscribers? **Tom Kelsch**: ALTEL is now ATT in this area is, so you would be under the ATT. I believe Verizon is supportive of this too, and has similar type of system. They have been cooperating with law enforcement agencies in the past. This helps it make it a little bit easier for them because we understand the need to try it for safety, but also there also is a need to protect the privacy of people. So you aren't giving information out or in a situation where you shouldn't. Under Subsection 4 in the bill it does provide that the BCI is to obtain contact information from all wireless providers authorized to do business in the state to facilitate a request form. They get that lined up ahead of time and to help facilitate that process. Both for identification so they know where it's coming from the appropriate authority and then who to contact.

Further testimony in support of HB 1205, in opposition, in neutral position,

Hearing Closed on HB 1205.

Motion to Move Do Pass: Senator Judy Lee
2nd: Senator Olafson
Role Call Vote:
Carrier: Senator Laffen

Date: 3/11/2011
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1205

Senate Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☑ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Judy Lee Seconded By Senator Olafson

Senators	Yes	No	Senators	Yes	No
Chairman John Andrist	✓		**Senator Curtis Olafson**	✓	
V. Chairman Lonnie Laffen	✓				
			Senator Jim Dotzenrod	✓	
Senator Judy Lee	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Senator Laffen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1205, as engrossed: Political Subdivisions Committee (Sen. Andrist, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1205 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1205

Kansas Liberty: 14 May 2010

Rep. Rob Olson and Greg Smith promoting Kansas law as template for other states

Law inspired by tragic death of Kansas teen

The Missouri Senate today is debating the Kelsey Smith Act, a piece of legislation originating in Kansas which requires wireless phone companies to comply with law enforcement when asked to help locate a missing person in an emergency situation. According to the Kansas sponsor of the Kelsey Smith Act, Rep. Robert Olson, R-Olathe, the law has been utilized by law enforcement numerous times since it was signed into law in April 2009.

> "It has worked here in Kansas and it does save lives," Olson told Kansas Liberty.

The Kelsey Smith Act was signed into law yesterday in Minnesota and is now also law in Nebraska.

The legislation was promoted by Greg and Missey Smith, who are the parents of Kelsey Smith, the Johnson County teen who was kidnapped, raped and murdered in 2007.

> After Kelsey went missing, her family and law enforcement requested that her cell phone company help locate Kelsey. It took Verizon four days before it complied with the request and Kelsey's body was located less than one hour later.

If Verizon had complied with the request earlier, Kelsey still would not have been saved, but the Smiths and proponents of the law argue that it can be utilized to save the lives of other victims.

Greg Smith, a former police officer, said a quick response rate by the cell phone companies is critical and cited that 77 percent of kidnapping victims are killed within three hours of the kidnapping. The Kelsey Smith Act expedites the process of law enforcement by obtaining the information from the cell phone companies and making it much easier to locate the victim within that three hour window.

> "I think this is absolutely crucial to law enforcement," Smith told Kansas Liberty.

Olson said his legislative office had been contacted by lawmakers in approximately 15 other states who were interested in promoting the Kelsey Smith Act. Olson and Smith are working to ensure the Kelsey Smith Act becomes law in all 50 states.

> "This bill is saving a lot of lives, and I think within the next three to five years we will have it in all 50 states," Olson said. "That's my mission."

Rep. Todd Tiahrt, a Republican representing the state's Fourth District, has been promoting the Kelsey Smith Act in the U.S. House of Representatives. The legislation is currently in the House Energy and Commerce Committee where it is waiting for a hearing.

> "We remain optimistic that a hearing will be set so that the Kelsey Smith Act can move through committee," Sam Sackett, spokesperson for Tiahrt, told Kansas Liberty.

Smith said because the Kelsey Smith Act attracted some controversy at the national level, due to concerns brought regarding privacy issues, he was not fully optimistic the bill would become law at the national level.

> "If we have to go state to state we will," Smith said.

Smith said that his involvement with the political process in promoting the Kelsey Smith Act has motivated him to run for a spot in the Kansas House. Smith is campaigning for the seat currently being held by Rep. Lisa Benlon, a Democrat representing Overland Park. Benlon voted for the increase in Kansas sales tax and also voted for Kansas to add significantly more debt for transportation projects.

While Smith said his top priority would be promoting safety and security for Kansas residents, he is also a strong advocate of limited government.

> "It really is state government where we can make the biggest difference in people's lives," Smith said.

—Holly Smith

Resources:

Tiahrt news release on Kelsey Smith Act

Kelsey Smith Foundation

Greg Smith for Kansas

Lisa Benlon legislative web page

Log in to add comments

#1

at&t | External & Legislative Affairs

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February 7, 2011

The Honorable John M. Andrist and
Members of the Political Subdivisions Committee
North Dakota Senate

Dear Senator Andrist:

I am writing to express AT&T's support for HB 1205. This bill addresses the need for wireless companies to provide information on caller location during life-threatening emergencies, specifically when the victim can't call 911. AT&T has a state-of-the-art system for responding to requests for location of wireless customers. We operate a system that is responsive to emergency situations but is also sensitive to the need to protect customer privacy. Here is a brief description of AT&T's process:

When customers contact AT&T for help in locating a missing family member, our service representatives are trained to tell them to contact their local law enforcement who will make the official request to AT&T. We have worked with law enforcement (police departments, sheriffs, PSAPs) across the country to assure that they know how to contact AT&T for such requests. AT&T has a central location that handles these requests for the entire country. This center is referred to as the AT&T Mobility National Compliance Center or "NCC". The NCC is able to provide location (cell site) information to law enforcement based on either historical call records or by utilizing a tool known as the Mobile Locator. If the missing family member's wireless device is turned on, the Mobile Locator has the ability to provide latitude and longitude of the location of the phone typically within 50-100 meters. In many markets, location information from the NCC can be obtained manually by an AT&T employee by logging into the system and providing the information to law enforcement. In another option, the system can be programmed to automatically send information directly to law enforcement officials every 5, 15 or 30 minutes via email depending on the urgency of the investigation.

AT&T's NCC handles about one hundred emergency requests each day from PSAPs, police departments and other law enforcement agencies. The center is open seven days a week, 24 hours a day. We have designed the system to

provide information to law enforcement officials in a manner that is consistent with the federal law governing such disclosure – the Electronic Communications Privacy Act ("ECPA"). Federal law specifically provides that telecommunications carriers may provide such information "to a governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency." 18 U.S.C. 2702(c)(4). Because the request comes from law enforcement, the carriers are able to ensure that a situation is, in fact, a life-threatening emergency. It also assures that we properly safeguard sensitive confidential information about the location of our wireless customers. The location information is provided to Public Safety Answering Points (PSAPs) immediately upon verification that we are in fact dealing with a legitimate PSAP. The PSAP provides a follow up "Exigent Circumstances Form" to us after the fact. All other exigent requests for location information require law enforcement to sign a certification stating that the information is needed because a person is in danger of death or serious physical injury and agreeing to provide follow up legal process within 48 hours. In those cases where a person is missing and law enforcement cannot validate that a crime has been committed, the NCC sends a Missing Person form which does not require follow-up with a court order. The certification must be signed and returned to the NCC prior to receiving the information. As an added precaution, all exigent requests must be approved by an AT&T Supervisor or Manager before the information is provided; however, this does not create a delay as there is a Manager or Supervisor on call 24X7.

AT&T has been responding to requests for customer location information for many years. Our efforts have been invaluable in assisting law enforcement with kidnappings, missing persons and attempted suicides. There are numerous documented cases of lives being saved as a result of the NCC's prompt response to requests made during emergencies. The information provided by the NCC is not taken lightly and every precaution is taken to preserve the customer's right to privacy while assisting law enforcement when lives are in danger.

I appreciate your efforts to ensure that this vital location information is available to law enforcement, while protecting the privacy of North Dakota citizens. For this reason, AT&T respectfully requests that you vote to pass HB 1205.

Sincerely,

Beth Canuteson