

Prepared Testimony of Missey Smith

Mother of Kelsey Smith

In Support of HB13-1308

April 23, 2013



*In Memory of Kelsey*

First I would like to thank you for considering such an important piece of legislation and am sorry I was unable to give testimony in person. My name is Missey Smith; I am the mother of Kelsey Smith. She is the reason this legislation began in Kansas four (4) years ago and to date has passed in nine states. They are Kansas, Nebraska, Minnesota, New Hampshire, North Dakota, Hawaii, Tennessee, Missouri. A few weeks ago Utah became the ninth.

I am in support of this legislation but would like to make two recommendations regarding the proposed wording. In each of the states where this law has passed there has been a central location that has all of the cell phone providers contact information. I believe this is key because when a person is missing time is of the essence and we don't need a law enforcement agency trying to figure out how to reach a cell phone company. The second provision that I think needs to be addressed is the hold harmless clause. If a company is releasing this information in good faith that just seems like good policy to me.

Here is a little background on Kelsey and our story. Kelsey is the young lady that was taken from a Target store in Overland Park, Kansas on June 2, 2007, just nine days after graduating from high school. Her story made national and international news. Kelsey's body was recovered four days later in Missouri where she had been murdered. What does a parent go through when a child is missing? You don't eat because you don't know if your child is eating. You don't sleep, because you wonder if they are sleeping. It is pure hell. What took so long to find Kelsey? ONE word, Verizon. Let me be perfectly clear, in no way do we hold them responsible for Kelsey's death.

I was on my way home from Des Moines, Iowa, when our daughter Lindsey called me. She let me know that Kelsey was not answering her phone or text messages, I knew immediately that something was wrong. My husband, Kelsey's siblings and John, her boyfriend, continued to try and reach her as did I for the last hour of my trip home. After I arrived home, John explained that his uncle used to work for Sprint and had explained that our cell phone company could "ping" Kelsey's phone so we could locate her. It seemed simple enough. Little did we know? I called our cell provider and explained that my daughter was missing and I needed help to find her. They told me that they were unable to do that. They explained that I could get on-line and check her cell phone activity. We had already contacted police and I believe had located her car. I know some time that night Greg also contacted them and was told the same thing. Sgt. Tippe of the Overland Park Police Department contacted them to request the information and there was even a subpoena issued by the DA asking for Kelsey's cell phone "pings".

In July 2007 we had a meeting with Verizon officials regarding what had occurred in Kelsey's case. It included the President and three lawyers. During that meeting one of the lawyers basically said to us that we used incorrect terminology when requesting their help. WE had used the word "ping". Apparently that was terminology they did not use. I explained to her in some very strong language that they knew exactly what I was asking for because I told them my child was missing. I told them to go back, check their protocol and figure out where they had failed Kelsey. I told them I would follow up to see what they had found. After several months of not hearing anything, I called Nancy Bates an administrative assistant. I explained why I was calling. She had the unfortunate job of calling me back to say the lawyers found their protocol to be "adequate". If their actions were adequate, I would hate to see what inadequate is. I can tell you this; if Verizon had acted in a more responsive manner we probably would not have seen a need for this legislation. A few years later we yet again met with Verizon officials who basically told us it was human error that caused the four day delay in releasing Kelsey's cell phone locate information. You see,

Verizon at that time was NOT able to “ping” a phone as we had asked. They could however look at the history of where a cell phone made contact with a tower. I fully understand that employees are human and that mistakes will be made. I believe that this legislation WILL reduce those errors. Let our law enforcement be the deciding factor as to what is an emergency. That is what we spend a lot of time, money and resources to train them for.

Kelsey’s Law saves lives. It works and the good news is that the cost is NOTHING!! There are not many times a legislator can pass a law that will save lives and it will not cost one cent. After this legislation passed in other states we have received emails and heard from 911 managers of how the law works and of situations where lives were saved. There was an elderly gentleman who had a stroke and could only remember wife’s phone number but did not know where he was. With Kelsey’s law they were able to find him in time and to get him the medical assistance he needed. In Tennessee there was a child that had been taken by a man charged with crimes against ten (10) different children. They were able to recover this child.

As my husband and I have traveled around the country and have met with different law enforcement agencies we have found that Verizon is not the only company that this type of situation occurs with. The major telecom providers have gotten much better when working with police during an exigent circumstance. They do however run into situations with almost every company, *especially* some of the smaller less known companies. Law enforcement in the states that have passed similar legislation supported The Kelsey Smith Act. We also have the support of AT&T, Sprint and yes even Verizon.

I have included with my testimony talking points regarding The Kelsey Smith Act and a map of Kelsey’s cell phone locates for you. This map was prepared by a local news station that is why you will see the word “ping” on the map.

On the day that Kelsey Smith Act passed in Kansas, I told now Senator Rob Olson, the first sponsor of this legislation, that maybe the reason my baby laid in the woods for four days was because my God knew this law needed to change. He also knew this mama had the mouth to do it.

According to C.S. Lewis, “Experience: that most brutal of teachers. But you learn, my God do you learn.” In 2007, there were 4176 young people ages 17-24, murdered in the United States. How many of those victims had a cell phone? I personally knew one of them. Please learn from our experience.

Thank you,

Missey Smith

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This map was prepared by a local news station.

### **Talking Points for Kelsey Smith Act**

Kelsey Smith, she is the reason this legislation began in Kansas four (4) years ago and to date has passed in nine states. They are KS, NE, MN, NH, ND, Hawaii, TN, MO and two weeks ago Utah. Working in 6 other states this year. Washington, Ohio, Vermont, W. Virginia, Nevada & Rhode Island.

### **Questions about this bill.**

**What is this law and why is it needed?** - Federal law states that providers MAY release the location information. This states they SHALL. We spend a lot of time, money and resources training our police. Who better to make the decision on what a life threatening emergency is. Police or a customer service rep at 2 am on a Saturday night? Right now the decision is left to a customer service rep.

**What about Privacy?** –Not asking for call information or text content. Don't care who is being called or texts are going to or the content of the texts. Just **WHERE** is the device and where did it make contact on the network.

**What if a person wants to go missing?** Ok. Young woman in KS in 2011 went missing, police located her, took pic. Told family she was alive and well but NOT WHERE she was.

**What about stalking?** Someone wants to get information – ONLY released to law enforcement. Protocols are in place w/in departments and telecom providers.

**Does it Work?** YES!!! Suicide prevented (KS), child rescued from a perp in Tenn. Elderly stroke victim found in time. One of the first cases this law was used for was to recover a young lady taken to another state and murdered.

### **Much legislation is about the numbers. Let me give you some numbers:**

- \$15,000 Cost to bury Kelsey in 2007
- 125 detectives in her case, 18 different agencies, multiple municipalities and 2 states all tied up for 4 days. How much \$\$\$
- All the while Verizon had the ability to locate her.
- 45 minutes – that is how long it took to locate Kelsey once the engineer went to the tower.
- 4176 , 17 – 24 year olds murdered in US 2007
- 1 – I knew personally - Kelsey
- \$0 - Cost of The Kelsey Smith Act

PRICELESS! - Value of the lives saved using The Kelsey Smith Act