

**Crime Survivors, Victim Advocates and Victim Assistance Organizations  
Support H.R. 4889, the Federal *Kelsey Smith Act***

April 18, 2016

Honorable Kevin Yoder  
U.S. House of Representatives  
215 Cannon House Office Building  
Washington, DC 20515

Dear Representative Yoder:

Thank you for your sponsorship of H.R. 4889, the *Kelsey Smith Act*. We believe H.R. 4889 is critical to enhance the investigations of law enforcement agencies when somebody is identified as missing or in a life-threatening situation by working with the telecommunications industry to access the location of wireless devices.

The bipartisan passage of *Kelsey's Law* in 22 states has been an admirable success in our field that has enhanced the capacity of law enforcement to quickly find victims whose lives are in eminent danger. This is a vital tool in law enforcement's response to violent crime victims and other people who are in life-threatening situations, as well as for public safety and crime victim assistance in our Nation.

As crime survivors, victim service professionals and victim advocacy organizations, we support the important efforts of Greg and Missey Smith following the senseless abduction and murder of their daughter Kelsey in 2007 that have had a positive and profound impact on our field and on individual and public safety.

We urge Members of the U.S. House of Representatives to vote for H.R. 4889 – a vote for crime victim assistance and a vote for improved public safety.

Thank you very much.

Sincerely,

National Organization of Parents of Murdered Children (POMC)

End Violence Against Women, International (EVAWI)

International Organization for Victim Assistance (IOVA)

The Moss Group

## **H. R. 4889 Support Signatories**

### **Page two**

National Association of Victim Assistance in Corrections (NAVAC)

Peyton Tuthill Foundation

Elaine and Gordon Rondeau  
Renee Olubunmi Rondeau Peace Foundation

William Kellibrew Foundation

WINGS Foundation

River Phoenix Center for Peacebuilding  
Gainesville, FL

Dr. Sandra Pavelka  
President and CEO  
Pavelka Consulting Group

Aurelia Sands Belle, Victim Advocate  
Durham, NC

Jeralita Costa, National Crime Victim Advocate  
Olympia, WA

Steve Derene  
Madison, WI

Herman Milholland, National Crime Victim Advocate  
Los Angeles, CA

Lydia Newlin, Director, Victim Assistance and Restorative Justice Programs  
Minneapolis, MN

Anne Seymour, National Crime Victim Advocate  
Washington, DC

April 17, 2016

Chairman Upton, Vice Chairman Blackburn and members of the House Committee on Energy and Commerce, I am writing in support H.R. 4889, also known as The Kelsey Smith Act.

The purpose of The Kelsey Smith Act is to require providers of a covered service to provide location information concerning the telecommunications device of a user of such service to an investigative or law enforcement officer in an emergency situation involving risk of death or serious physical injury or in order to respond to the user's call for emergency services.

At this time, the decision is left up to a customer service representative and not law enforcement and may leave them without an important tool that could save lives. When a life is at risk minutes count and, without this type of law, it can take hours to secure a search warrant to trace the victim's wireless devices.

In states where this legislation has already passed there have been successful uses of this law and victims were recovered alive. The Kelsey Smith Act is law in 22 states to date. I feel at this point it would be commonsense to make this national. I have seen cases where this law has saved the lives of youth and senior citizens. Last year in my community and infant was located safe after a carjacking because of the Kelsey Smith Act. Found safe within 40 minutes! It indeed saves lives.

I encourage you to pass this important law.

Sincerely



**Federal Bureau of Investigation**  
*Agents Association*

April 19, 2016

The Honorable Greg Walden  
Chairman  
Communications and Technology Subcommittee  
House Energy and Committee Committee  
2125 Rayburn House Office Building  
Washington, DC 20515

The Honorable Anna Eshoo  
Communications and Technology Subcommittee  
House Energy and Committee  
2322A Rayburn House Office Building  
Washington, DC 20515

**Re:** H.R. 4889, the *Kelsey Smith Act of 2016*

Dear Chairman Walden and Ranking Member Eshoo:

On behalf of the FBI Agents Association (FBIAA), a voluntary professional association currently representing over 13,000 active duty and retired FBI Special Agents, I write to express the FBIAA's support for H.R. 4889, the *Kelsey Smith Act of 2016*. H.R. 4889 would help law enforcement agencies protect the public by requiring that cellphone service providers disclose location information to law enforcement officers in emergency situations.

Service providers should not delay when this information is requested by law enforcement in circumstances that involve the risk of serious physical harm or death. When Kelsey Smith was abducted in 2007, the four days spent waiting for records to be provided by her cellphone provider could have been the difference between life and death for Kelsey. In fact, after the information was provided to law enforcement, it took only about an hour for law enforcement to find Kelsey's body.

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**A Non-Governmental Association**  
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**Federal Bureau of Investigation**  
*Agents Association*

April 19, 2016  
Page 2

H.R. 4889 would help prevent this tragic circumstance from repeating itself in the future—at no cost to taxpayers and using information that is already gathered by cellphone providers. Congress should follow the lead of numerous states and other countries by passing this common sense legislation.

The FBIAA greatly appreciates your committee's consideration of this important legislation. If you have any questions, please contact me, or our General Counsel Dee Martin, [dee.martin@bracewelllaw.com](mailto:dee.martin@bracewelllaw.com), and Joshua Zive, [joshua.zive@bracewelllaw.com](mailto:joshua.zive@bracewelllaw.com).

Sincerely,



Reynaldo Tariche  
President

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April 18, 2016

Chairman Upton, Vice Chairman Blackburn and members of the House Committee on Energy and Commerce, I am writing in support H.R. 4889, also known as The Kelsey Smith Act.

The purpose of The Kelsey Smith Act is to require providers of a covered service to provide location information concerning the telecommunications device of a user of such service to an investigative or law enforcement officer in an emergency situation involving risk of death or serious physical injury or in order to respond to the user's call for emergency services.

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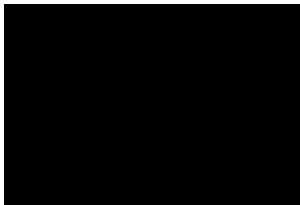
In states where this legislation has already passed there have been successful uses of this law and victims were recovered alive.

I encourage you to pass this. I am the mother of twin girls, now adult women, and now a grandmother of a 5 month old little girl. Yes, I own a cell phone, and yes, something like what happened to Kelsey Smith could happen to one of my girls, my granddaughter, my mother, and even myself. I have NEVER understood the delay in passing this bill as IF anyone were put in immediate danger and minutes could save a life why in the world wouldn't we allow this? If "I" call 911 from my cell, or any member of MY family, I WANT TO BE LOCATED IMMEDIATELY!!! I want the chance, even if remote to LIVE!!

I STRONGLY support this bill and truly believe there should be no question in getting this passed.

Sincerely,

Shirley Misceovich





**Kansas Association of  
Chiefs of Police**  
PO Box 780603  
Wichita, KS 67278  
(316)733-7300



**Kansas Sheriffs  
Association**  
PO Box 1853  
Salina, KS 67402  
(785)827-2222



**Kansas Peace Officers  
Association**  
PO Box 2592  
Wichita, KS 67201  
(316)722-8433

April 18, 2016

United States House of Representatives  
Committee on Energy and Commerce

Chairman Upton, Vice Chairman Blackburn and members of the House Committee on Energy and Commerce:

Our associations encourage the passage of H.R. 4889, also known as the Kelsey Smith Act. When the Kelsey Smith Act passed in our state, supported by all of the law enforcement organizations in the state of Kansas, we were very aware even miniscule delays in obtaining location information available through communications systems had life changing impacts on victims and their families. We have not taken the associated responsibility lightly to limit the use of this valuable tool in recovering persons in immediate danger of harm or loss of life.

The Kelsey Smith Act transcends simply being labeled as “important.” This Act puts in the hands of emergency responders a tool that can be used to *immediately* take action in the face of horrible crimes where every passing minute increases the likelihood of a negative outcome. The goal of this action is not to catch the perpetrator after the crime; the goal is to catch them during a crime before the level of harm to the victim escalates and ultimately to *save a life*. Losing Kelsey Smith was a tragedy and her family has worked tirelessly to fight for other families and potential victims so that these types of needless deaths might be stopped. Kelsey’s Act looks to add potency in the fight against violent crimes, a fight in which purely knowing *where* a victim is could save their life.

Kelsey Smith was kidnapped from a Kansas shopping center. It was troubling to investigators and to our communities that we were able to identify and apprehend the perpetrator through video surveillance enhancement and an AFIS search of latent fingerprints from her car *before* we could legally get location information from her cell phone. If we had the Kelsey Smith law in Kansas prior to her kidnapping would we have located her before her life was taken? We will never know for sure, but it is certain the odds would have been improved.

The kidnapping and murder of Kelsey Smith was not the only case where law enforcement had encountered these types of delays in critical life and death cases before and after the Kelsey Smith case. After the Kelsey Smith Act became law in Kansas, we successfully used the data in several

cases with better outcomes. These cases go beyond the crime of kidnapping and have also been used when persons are missing in conditions where the risk to life is high. For example, adults with dementia or children who are in danger due to lack of life sustaining medications, weather related elements, or other life threatening conditions.

We are truly concerned with privacy issues and feel that safeguards are in place to prevent abuse. We are not aware of any case in Kansas where the provisions of the Kansas Kelsey Smith Act have been abused by law enforcement. H.R. 4889 has language to only apply when the device attempting to be located 1) was used to place a 9-1-1 call requesting assistance, or 2) is reasonably believed to be in the possession of a person at risk. It does not allow the act to be used to locate any person for any other reason. This is narrower in scope than the Kansas law and is a clear limitation protecting privacy rights.

In Kansas, we found the public enthusiastic for this type of legislation and they were absolutely indignant when confronted with the realities of the system in our state before Kelsey's Law. All we want to do is help the victim/person at risk in these devastating situations...*the Kelsey Smith Act can make a difference.*

/s/ Sheriff Troy Briggs  
Haskell County Sheriff's Office  
President, Kansas Sheriff's Association

[REDACTED]  
[REDACTED]

/s/ Chief Mark Mathies  
Edwardsville Police Department  
President, Kansas Association of Chiefs of Police

[REDACTED]  
[REDACTED]

/s/ Chief Bill Edwards  
Eudora Police Department  
President, Kansas Peace Officers Association

[REDACTED]  
[REDACTED]



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April 18, 2016

Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Committee Members:

On behalf of the Public Safety Communications Board and Regional 9-1-1 System that serve the Kansas City metropolitan area, we encourage you to lend your support to H.R. 4889, the "Kelsey Smith Act of 2016."

Named in honor of Kelsey Smith, a teenager who was abducted from an Overland Park, Kansas, shopping center and murdered, H.R. 4889 would strengthen the ability of law enforcement agencies to lawfully and quickly access cell phone location information when someone is in imminent danger.

We believe this legislation can play a vital role in saving lives by locating individuals in need of emergency assistance who aren't able to call 9-1-1 for themselves. The state of Kansas passed "Kelsey's Law" in 2009 and Missouri in 2012. Our 9-1-1 dispatchers have used this location service on many occasions to help save lives.

Here are few examples of how Kelsey's Law has been put to use in our region:

- An elderly gentleman experienced a medical emergency away from home and called his wife before passing out. His wife called 9-1-1 and officers were able to "ping" his cell phone location, find him in his vehicle at a local park, and get prompt medical attention.
- A woman who was being held against her will in an unknown hotel room texted a friend to ask for help since she could not call 9-1-1 safely herself. The friend called 9-1-1 and the cell phone was located, allowing law enforcement officials to rescue the victim.
- A young lady was taken from her home at gunpoint by her ex-boyfriend. Her family called 9-1-1 and her cell phone was located in a wooded area where she had been taken.

Kelsey's Law provides an invaluable tool to help law enforcement locate individuals in need of help. The authority provided by this law is only put to use after a 9-1-1 call has been placed and an investigation begun in a situation where someone is in imminent danger. In the seven years since the law was enacted in our region, we have not seen a single instance of misuse of the law to violate privacy.

We believe that the "Kelsey Smith Act of 2016" will offer clarity and direction for wireless carriers to provide this service consistently and effectively across the nation.

Sincerely,



Walter Way  
Public Safety Communications Board Co-Chair



Sheriff Mark Owen  
Public Safety Communications Board Co-Chair

Chair  
Curt Skoog  
Councilmember  
Overland Park, Kansas

1st Vice Chair  
Carol Suter  
Councilmember  
Gladstone, Missouri

2nd Vice Chair  
Ed Eilert  
Commission Chairman  
Johnson County, Kansas

Treasurer  
Beverlee Roper  
Commissioner  
Platte County, Missouri

Secretary  
Randy Rhoads  
Mayor  
Lee's Summit, Missouri

Executive Director  
David A. Warm

April 18, 2016

Chairman Upton, Vice Chairman Blackburn and members of the House Committee on Energy and Commerce, I am writing in support H.R. 4889, also known as The Kelsey Smith Act.

The purpose of The Kelsey Smith Act is to require providers of a covered service to provide location information concerning the telecommunications device of a user of such service to an investigative or law enforcement officer in an emergency situation involving risk of death or serious physical injury or in order to respond to the user's call for emergency services.

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In states where this legislation has already passed there have been successful uses of this law and victims were recovered alive.

I encourage you to pass this.

Sincerely,

Matthew S. Peery

April 18, 2016

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*Respectfully,*



April 18, 2016

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Sincerely,

David J. Peery



House Committee on Energy and Commerce  
Washington, DC

Representative Rebecca Petty  
Arkansas House of Representatives  
500 Woodlane Street  
Little Rock, AR 72201

April 16, 2016

Dear Chairman Upton, Vice Chairman Blackburn and members of the House Committee on Energy and Commerce,

I am writing in support H.R. 4889, also known as The Kelsey Smith Act. Arkansas was the 17<sup>th</sup> state to pass the Kelsey Smith Act. This letter is to inform the Committee that as of this date the Kelsey Smith Act has caused no issues of privacy in the state of Arkansas. As the sponsor of the Kelsey Smith Act, I worked diligently with Kansas Senator Greg Smith and his wife, Missey, the Arkansas Crime Information Center, the Arkansas State Police, and AT&T, to ensure that the privacy of Arkansas citizens would be protected to the utmost extent, but also allow law enforcement to act in the event that a person would be able to be located upon the unfortunate circumstance that they may be in harm's way or in danger of death.

This measure passed with overwhelming support last year in state of Arkansas and was signed in to state law March 5<sup>th</sup> of last year. As a representative of the great state of Arkansas I ask you to support this lifesaving measure.

Thank you,

Representative Rebecca Petty

*Rebecca Petty*

Arkansas House of Representatives

Dear Chairman Upton, Vice Chairman Blackburn and members of the House Committee on Energy and Commerce,

My name is Jason Osterhaus and currently I serve as a County Commissioner in Johnson County, KS. I am writing you today to voice my support for H.R. 4889, the Kelsey Smith Act of 2016.

It has been my pleasure to know Greg and Missey for the better part of a decade, working with them on many legislative issues for the betterment of our shared constituents. During our time together Greg shared many stories of why he ran for office, and while there are many reasons, there is none more important to him than the cause of his daughter Kelsey.

Kelsey's memory takes a legislative form in H.R. 4889, which is before you today. Contained within it are tools that law enforcement can use to help prevent a tragedy like Kelsey's from ever happening again. This legislation has been passed and used in several states with great success, and it is my hope that you will consider passing this legislation on as well, so that the nation may benefit as well.

I thank you for your time and service to our nation,

Jason L. Osterhaus



## KANSAS STATE TROOPERS ASSOCIATION

April 18, 2016

To whom it may concern:

Please consider this letter the support of the Kansas State Troopers Association for H.R. 4889 -- the Kelsey Smith Act of 2016. This tool that focuses narrowly on instances where a person has gone missing and there is reasonable belief the person is in danger of serious physical harm or death. It is only at that point that the use of the person's cell phone can be used to track their location.

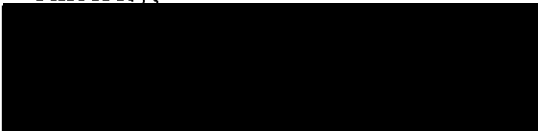
The Act only allows law enforcement to access the location of a wireless device. It does not allow the search of the device's contents. It simply allows the device to be located and tracked that creates the opportunity to find the missing person during exigent circumstances.

Our society must continue to recognize the rapid advances in technology as we are tasked with the protection of our citizens. Land lines give their location immediately of course and the cell phone is simply an extension of that device. It can certainly be argued the expectation of privacy in the use of what is in actuality a very sophisticated two-way radio, with the signal available to be intercepted by anyone with the right technology, is far less than a land line.

You may hear arguments that this law violates the 4<sup>th</sup> amendment to the United States Constitution by permitting a search without a warrant. We are certain that you are well aware how frail this argument is when only "unreasonable" searches prohibited by the 4<sup>th</sup> amendment and the only thing being revealed is the location of the phone and nothing more by H.R. 4889.

The Kansas State Troopers Association encourages your favorable consideration of this important Act so that now more tragedies like Kelsey's occur because this Act was not on the books.

Sincerely,



Mitch Mellick, President  
Kansas State Troopers Association



STATE OF KANSAS  
OFFICE OF THE ATTORNEY GENERAL

**DEREK SCHMIDT**  
ATTORNEY GENERAL

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April 18, 2016

Chairman Fred Upton  
House Energy and Commerce Committee  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Ranking Member Frank Pallone  
House Energy and Commerce Committee  
2322A Rayburn House Office Building  
Washington, DC 20515

Chairman Greg Walden  
Communications and Technology Subcommittee  
2185 Rayburn House Office Building  
Washington, DC 20515

Ranking Member Anna Eshoo  
Communications and Technology Subcommittee  
241 Cannon House Office Building  
Washington, DC 20515

Dear Chairman Upton, Chairman Walden and Ranking Members:

It is my understanding you intend soon to conduct a markup on H.R. 4889, which would enact the Kelsey Smith Act in federal law. I write in strong support of this measure and to relay to you our perspective from the public safety community in Kansas, which was the first state to enact a Kelsey Smith Law in 2009.

When a person is missing with reason to believe foul play is involved, minutes and seconds matter. That is particularly true in cases involving abductions, in which the immediate objective of law enforcement is to recover the victim as quickly as possible before he or she becomes the victim of even more-serious crime, such as a homicide. To that end, the ability for law enforcement to cause telecommunications companies to “ping” a cellphone to determine its location – and, we hope, the location of the victim to whom the phone belongs – is critical.

Delays at these critical times cost lives. In Kansas, we know that is true because we know all too well the story of Kelsey Smith, the Act’s namesake.

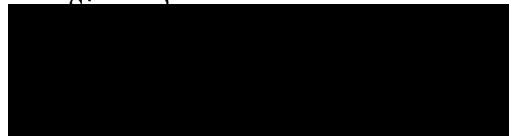


I am aware that some have expressed concerns about privacy and civil liberties if law enforcement is able to require telecommunications companies to locate cellphones as the Kelsey Smith Act requires. These concerns are misplaced. Indeed, in Kansas, which has had the Kelsey Smith Act in force longer than any other state, I am unaware of *any* civil liberties or privacy concerns that have been expressed about the law, much less any that proved to be of legitimate concern. H.R. 4889 is narrowly drawn to prevent any valid concerns about privacy. It does not grant access to the content of any communications, only to the general location of a cellphone at a particular time. It may be invoked only when law enforcement has a reasonable belief that rapid access to that location information is necessary to protect life or prevent serious physical harm.

And of course, the law's use and implementation will be subject to the safeguards of judicial review as is true with any other statute.

I encourage the House of Representatives to approve this measure so the vital public safety benefits of the Kelsey Smith Act need not stop at individual state lines.

Signature



Derek Schmidt  
Kansas Attorney General