

HOUSE BILL 533

E2, E4
HB 1053/22 – JUD & ECM

3lr2319
CF 3lr2859

By: **Delegate Williams**

Introduced and read first time: February 1, 2023

Assigned to: Judiciary and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Location Information – Exigent Circumstances**
3 **(Kelsey Smith Act for Maryland)**

4 FOR the purpose of requiring certain service providers to provide certain location
5 information for an electronic device to a law enforcement agency or public safety
6 answering point in certain circumstances for a certain period of time; prohibiting a
7 person from being held civilly liable for making required disclosures; requiring the
8 Department of State Police to collect and disseminate certain information under
9 certain circumstances; and generally relating to location information and exigent
10 circumstances.

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Procedure
13 Section 1–203.1(a)(1), (4), (5), (6), and (9)
14 Annotated Code of Maryland
15 (2018 Replacement Volume and 2022 Supplement)

16 BY adding to
17 Article – Criminal Procedure
18 Section 1–203.2
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2022 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
22 That the Laws of Maryland read as follows:

23 **Article – Criminal Procedure**

24 1–203.1.

25 (a) (1) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (4) (i) “Electronic device” means a device that enables access to or use
2 of an electronic communication service, as defined in § 10–401 of the Courts Article, a
3 remote computing service, as defined in § 10–4A–01(c) of the Courts Article, or a geographic
4 location information service.

5 (ii) “Electronic device” does not include:

6 1. an automatic identification system installed on a vessel in
7 accordance with Title 33, Part 164.46 of the Code of Federal Regulations; or

8 2. a vessel monitoring system (VMS) or a VMS unit installed
9 on board a vessel for vessel monitoring in accordance with Title 50, Part 648 of the Code of
10 Federal Regulations.

11 (5) “Exigent circumstances” means an emergency or other judicially
12 recognized exception to constitutional warrant requirements.

13 (6) “Location information” means real–time or present information
14 concerning the geographic location of an electronic device that is generated by or derived
15 from the operation of that device.

16 (9) “Service provider” means the provider of an electronic communication
17 service, a remote computing service, or any location information service.

18 **1–203.2.**

19 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
20 **INDICATED.**

21 (2) **“ELECTRONIC DEVICE” HAS THE MEANING STATED IN §**
22 **1–203.1 OF THIS SUBTITLE.**

23 (3) **“EXIGENT CIRCUMSTANCES” HAS THE MEANING STATED IN §**
24 **1–203.1 OF THIS SUBTITLE.**

25 (4) **“LOCATION INFORMATION” HAS THE MEANING STATED IN §**
26 **1–203.1 OF THIS SUBTITLE.**

27 (5) **“PUBLIC SAFETY ANSWERING POINT” HAS THE MEANING STATED**
28 **IN § 1–301 OF THE PUBLIC SAFETY ARTICLE.**

29 (6) **“SERVICE PROVIDER” HAS THE MEANING STATED IN § 1–203.1 OF**
30 **THIS SUBTITLE.**

1 **(B) ON REQUEST OF A LAW ENFORCEMENT AGENCY OR A PUBLIC SAFETY**
2 **ANSWERING POINT MADE ON BEHALF OF A LAW ENFORCEMENT AGENCY, A SERVICE**
3 **PROVIDER SHALL PROVIDE THE LOCATION INFORMATION OF AN ELECTRONIC**
4 **DEVICE IN EXIGENT CIRCUMSTANCES.**

5 **(C) A LAW ENFORCEMENT AGENCY OR A PUBLIC SAFETY ANSWERING POINT**
6 **MAY NOT OBTAIN LOCATION INFORMATION FOR AN ELECTRONIC DEVICE UNDER**
7 **THIS SECTION FOR A PERIOD EXCEEDING 48 HOURS.**

8 **(D) A PERSON MAY NOT BE HELD CIVILLY LIABLE FOR COMPLYING WITH**
9 **THIS SECTION BY PROVIDING LOCATION INFORMATION.**

10 **(E) (1) THE DEPARTMENT OF STATE POLICE SHALL OBTAIN CONTACT**
11 **INFORMATION FROM ALL SERVICE PROVIDERS AUTHORIZED TO DO BUSINESS IN THE**
12 **STATE AND ANY OTHER RELEVANT INFORMATION THAT WOULD ASSIST A LAW**
13 **ENFORCEMENT AGENCY OR A PUBLIC SAFETY ANSWERING POINT IN MAKING A**
14 **REQUEST FOR LOCATION INFORMATION UNDER THIS SECTION.**

15 **(2) THE INFORMATION COLLECTED UNDER PARAGRAPH (1) OF THIS**
16 **SUBSECTION SHALL BE PROVIDED TO EACH LAW ENFORCEMENT AGENCY AND**
17 **PUBLIC SAFETY ANSWERING POINT IN THE STATE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2023.