



# Senate

General Assembly

**File No. 663**

January Session, 2015

Senate Bill No. 1092

*Senate, April 15, 2015*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING COMPELLED DISCLOSURE OF CELLULAR TELEPHONE AND INTERNET RECORDS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-47aa of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) For the purposes of this section:

4 (1) "Basic subscriber information" means: (A) Name, (B) address, (C)  
5 local and long distance telephone connection records or records of  
6 session times and durations, (D) length of service, including start date,  
7 and types of services utilized, (E) telephone or instrument number or  
8 other subscriber number or identity, including any assigned Internet  
9 protocol address, and (F) means and source of payment for such  
10 service, including any credit card or bank account number;

11 (2) "Call-identifying information" means dialing or signaling  
12 information that identifies the origin, direction, destination or

13 termination of each communication generated or received by a  
14 subscriber or customer by means of any equipment, facility or service  
15 of a telecommunications carrier;

16 (3) "Electronic communication service" means "electronic  
17 communication service" as defined in 18 USC 2510, as amended from  
18 time to time;

19 (4) "Law enforcement official" means the Chief State's Attorney, a  
20 state's attorney, an inspector with the Division of Criminal Justice, a  
21 sworn member of the Division of State Police within the Department of  
22 Emergency Services and Public Protection or a sworn member of an  
23 organized local police department;

24 (5) "Remote computing service" means "remote computing service"  
25 as defined in section 18 USC 2711, as amended from time to time; and

26 (6) "Telecommunications carrier" means "telecommunications  
27 carrier" as defined in 47 USC 1001, as amended from time to time.

28 (b) A law enforcement official may request an ex parte order from a  
29 judge of the Superior Court to compel (1) a telecommunications carrier  
30 to disclose call-identifying information pertaining to a subscriber or  
31 customer, or (2) a provider of electronic communication service or  
32 remote computing service to disclose basic subscriber information  
33 pertaining to a subscriber or customer. The judge shall grant such  
34 order if the law enforcement official states [a reasonable and  
35 articulable suspicion] probable cause to believe that a crime has been  
36 or is being committed or that exigent circumstances exist and such call-  
37 identifying or basic subscriber information is relevant and material to  
38 an ongoing criminal investigation. The order shall state upon its face  
39 the case number assigned to such investigation, the date and time of  
40 issuance and the name of the judge authorizing the order. The law  
41 enforcement official shall have any ex parte order issued pursuant to  
42 this subsection signed by the authorizing judge within forty-eight  
43 hours or not later than the next business day, whichever is earlier.

44 (c) A telecommunications carrier shall disclose call-identifying  
45 information and a provider of electronic communication service or  
46 remote computing service shall disclose basic subscriber information  
47 to a law enforcement official when an order is issued pursuant to  
48 subsection (b) of this section.

49 (d) Not later than forty-eight hours after the issuance of an order  
50 pursuant to subsection (b) of this section, the law enforcement official  
51 shall mail notice of the issuance of such order to the subscriber or  
52 customer whose call-identifying information or basic subscriber  
53 information is the subject of such order, except that such notification  
54 may be delayed for a period of up to ninety days upon the execution of  
55 a written certification of such official to the judge who authorized the  
56 order that there is reason to believe that notification of the existence of  
57 the order may result in (1) endangering the life or physical safety of an  
58 individual, (2) flight from prosecution, (3) destruction of or tampering  
59 with evidence, (4) intimidation of potential witnesses, or (5) otherwise  
60 seriously jeopardizing the investigation. The law enforcement official  
61 shall maintain a true copy of such certification. During such ninety-day  
62 period, the law enforcement official may request the court to extend  
63 such period of delayed notification. Such period may be extended  
64 beyond ninety days only upon approval of the court. The law  
65 enforcement official shall file a copy of the notice with the court that  
66 issued the order pursuant to subsection (b) of this section.

67 (e) A telecommunications carrier or provider of electronic  
68 communication service or remote computing service that provides  
69 information pursuant to an order issued pursuant to subsection (b) of  
70 this section shall be compensated for the reasonable expenses incurred  
71 in providing such information.

72 (f) Any telecommunications carrier or provider of electronic  
73 communication service or remote computing service that provides  
74 information in good faith pursuant to an order issued pursuant to  
75 subsection (b) of this section shall be afforded the legal protections  
76 provided under 18 USC 3124, as amended from time to time, with

77 regard to such actions.

78 (g) No information obtained pursuant to subsection (c) of this  
79 section shall be stored for a period in excess of fourteen days, unless  
80 such information relates to an ongoing criminal investigation.

81 ~~[(g)]~~ (h) Not later than January fifteenth of each year, each law  
82 enforcement official shall report to the Chief State's Attorney the  
83 information required by this subsection with respect to each order  
84 issued pursuant to subsection (b) of this section in the preceding  
85 calendar year. The Chief State's Attorney shall, based upon the reports  
86 filed by each law enforcement official and not later than January thirty-  
87 first of each year, submit a report, in accordance with the provisions of  
88 section 11-4a, to the joint standing committee of the General Assembly  
89 having cognizance of matters relating to criminal law and procedure  
90 concerning orders issued pursuant to subsection (b) of this section in  
91 the preceding calendar year. The report shall include the following  
92 information: (1) The number of orders issued, (2) whether the order  
93 was directed to a telecommunications carrier, provider of electronic  
94 communication service or provider of remote computing service, (3)  
95 whether the information sought was call-identifying information or  
96 basic subscriber information, (4) the statutory offense or offenses that  
97 were the subject of the investigation, (5) the number of notifications  
98 that were delayed pursuant to subsection (d) of this section, and the  
99 reason for such delayed notification, (6) the number of motions to  
100 vacate an order that were filed, and the number of motions granted or  
101 denied, (7) the number of investigations concluded and the final result  
102 of such investigations, and (8) the status of any criminal prosecution  
103 resulting from the investigation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	54-47aa

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill makes changes to laws regarding cellular telephone and internet record disclosure by private companies and therefore has no state or municipal fiscal impact.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****SB 1092*****AN ACT CONCERNING COMPELLED DISCLOSURE OF CELLULAR TELEPHONE AND INTERNET RECORDS.*****SUMMARY:**

By law, telecommunications carriers must disclose call-identifying information, and electronic communication or remote computing service providers must disclose basic subscriber information, to law enforcement officials based on ex parte court orders (i.e., orders issued without a hearing or prior notice to the customer), under specified conditions.

This bill raises the standard for issuance of these orders. It requires the law enforcement official to state probable cause, rather than a reasonable and articulable suspicion, that (1) a crime has been or is being committed or emergency circumstances exist and (2) the information is relevant and material to an ongoing criminal investigation.

The bill prohibits law enforcement from keeping the information for more than 14 days, unless it relates to an ongoing criminal investigation.

By law, after the court issues the order, the law enforcement official who requested it must mail a notice within 48 hours to the person whose records were the subject of the order, unless the official requests a 90-day delay for certain reasons (e.g., notification would endanger someone's safety or otherwise seriously jeopardize the investigation). The bill requires the official to file a copy of the notice with the court that issued the order.

EFFECTIVE DATE: October 1, 2015

**BACKGROUND*****Basic Subscriber and Call-Identifying Information***

Under this law, "basic subscriber information" is the:

1. subscriber's name and address;
2. telephone or instrument number, or other subscriber number or identity, including any assigned Internet protocol address;
3. local and long distance telephone connection records or records of session times and durations;
4. length of service, including start date, and types of services utilized; and
5. payment source for the service, including any credit card or bank account number.

"Call-identifying information" is dialing or signaling information that identifies the origin, direction, destination, or termination of each communication generated or received by a subscriber or customer by means of any equipment, facility, or service of a telecommunications carrier.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 33 Nay 9 (03/27/2015)