



General Assembly

February Session, 2016

Raised Bill No. 5640

LCO No. 3308



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

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 Section 54-47aa of the general statutes is repealed and the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, 2016*):

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, excluding geo-location data, by means of any
15 equipment, facility or service 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) "Geo-location data" means information concerning the location
20 of an electronic device, including the real-time and historical location
21 of the device, that, in whole or in part, is generated by, derived from or
22 obtained by the operation of an electronic device, including, but not
23 limited to, a cellular telephone surveillance device;

24 [(4)] (5) "Law enforcement official" means the Chief State's Attorney,
25 a state's attorney, an inspector with the Division of Criminal Justice, a
26 sworn member of the Division of State Police within the Department of
27 Emergency Services and Public Protection or a sworn member of an
28 organized local police department;

29 [(5)] (6) "Remote computing service" means "remote computing
30 service" as defined in section 18 USC 2711, as amended from time to
31 time; and

32 [(6)] (7) "Telecommunications carrier" means "telecommunications
33 carrier" as defined in 47 USC 1001, as amended from time to time.

34 (b) A law enforcement official may [request] apply for an ex parte
35 order from a judge of the Superior Court to compel (1) a
36 telecommunications carrier to disclose call-identifying information
37 pertaining to a subscriber or customer, or (2) a provider of electronic
38 communication service or remote computing service to disclose basic
39 subscriber information pertaining to a subscriber or customer. The
40 judge shall grant such order if the law enforcement official [states]
41 affirms under oath a statement of (A) a reasonable and articulable
42 suspicion that a crime has been or is being committed [or that exigent
43 circumstances exist] and such call-identifying or basic subscriber

44 information is relevant and material to an ongoing criminal
45 investigation, [. The order] in which case such order shall not authorize
46 disclosure of the content of any communication, or (B) probable cause
47 to believe that a crime has been or is being committed or that exigent
48 circumstances exist and the content of such subscriber's
49 communications or the geo-location data associated with such
50 subscriber's call-identifying information is relevant and material to an
51 ongoing criminal investigation, in which case such order shall
52 authorize the disclosure of such information, content or geo-location
53 data. Any such order entered pursuant to this subsection shall state
54 upon its face the case number assigned to such investigation, the date
55 and time of issuance and the name of the judge authorizing the order.
56 The law enforcement official shall have any ex parte order issued
57 pursuant to this subsection signed by the authorizing judge within
58 forty-eight hours or not later than the next business day, whichever is
59 earlier. No such order shall authorize the disclosure of any such
60 information, content or data for a period in excess of fourteen days.

61 (c) A law enforcement official may apply directly to a
62 telecommunications carrier or provider of electronic communication
63 service or remote computing service for production of geo-location
64 data for a period not in excess of forty-eight hours, including real-time
65 or historical geo-location data, or any combination of such data,
66 pertaining to an identified subscriber or customer. The
67 telecommunications carrier or provider of electronic
68 telecommunication service shall provide the requested geo-location
69 data upon the applicant stating under oath: (1) That facts exist upon
70 which to base a belief that the data sought is material and relevant to
71 an ongoing investigation; (2) a belief that an exigent circumstance
72 exists; and (3) the facts supporting the belief that an exigent
73 circumstance exists. Any subsequent application for information from
74 the same telecommunication carrier or provider of electronic
75 communication service or remote computing service for production of
76 geo-location data in connection with the same investigation shall be

77 made pursuant to subsection (b) of this section.

78 [(c)] (d) A telecommunications carrier shall disclose call-identifying
79 information and a provider of electronic communication service or
80 remote computing service shall disclose basic subscriber information
81 to a law enforcement official when an order is issued pursuant to
82 subsection (b) of this section.

83 [(d)] (e) Not later than forty-eight hours after the issuance of an
84 order pursuant to subsection (b) of this section, the law enforcement
85 official shall mail notice of the issuance of such order to the subscriber
86 or customer whose call-identifying information or basic subscriber
87 information is the subject of such order, except that such notification
88 may be delayed for a period of up to ninety days upon the execution of
89 a written certification of such official to the judge who authorized the
90 order that there is reason to believe that notification of the existence of
91 the order may result in (1) endangering the life or physical safety of an
92 individual, (2) flight from prosecution, (3) destruction of or tampering
93 with evidence, (4) intimidation of potential witnesses, or (5) otherwise
94 seriously jeopardizing the investigation. The law enforcement official
95 shall maintain a true copy of such certification. During such ninety-day
96 period, the law enforcement official may request the court to extend
97 such period of delayed notification. Such period may be extended
98 beyond ninety days only upon approval of the court. The applicant
99 shall file a copy of the notice with the clerk of the court that issued
100 such order. If information is provided in response to the order, the
101 applicant shall, not later than ten days after receiving such
102 information, file with the clerk a return containing an inventory of the
103 information received. If a judge issues an order authorizing delayed
104 notification under this subsection, the telecommunications carrier or
105 remote computing service from whom the basic subscriber information
106 or call-identifying information is sought shall not notify any person,
107 other than the law enforcement official that requested the ex parte
108 order, of the existence of the ex parte order. Any information provided
109 in response to the court order shall be disclosed to the defense counsel.

110 ~~[(e)]~~ (f) A telecommunications carrier or provider of electronic
111 communication service or remote computing service that provides
112 information pursuant to an order issued pursuant to subsection (b) of
113 this section or pursuant to an application made pursuant to subsection
114 (c) of this section shall be compensated for the reasonable expenses
115 incurred in providing such information.

116 ~~[(f)]~~ (g) Any telecommunications carrier or provider of electronic
117 communication service or remote computing service that provides
118 information in good faith pursuant to an order issued pursuant to
119 subsection (b) of this section or an application made pursuant to
120 subsection (c) of this section shall be afforded the legal protections
121 provided under 18 USC 3124, as amended from time to time, with
122 regard to such actions.

123 (h) No information obtained pursuant to subsection (b) or (c) of this
124 section shall be retained for a period in excess of fourteen days, unless
125 such information relates to an ongoing criminal investigation. Any
126 information provided pursuant to said subsection (b) or (c) shall be
127 disclosed to the defense counsel.

128 ~~[(g)]~~ (i) Not later than January fifteenth of each year, each law
129 enforcement official shall report to the Chief State's Attorney the
130 information required by this subsection with respect to each order
131 issued pursuant to subsection (b) of this section and each application
132 made pursuant to subsection (c) of this section in the preceding
133 calendar year. The Chief State's Attorney shall, based upon the reports
134 filed by each law enforcement official and not later than January thirty-
135 first of each year, submit a report, in accordance with the provisions of
136 section 11-4a, to the joint standing committee of the General Assembly
137 having cognizance of matters relating to criminal law and procedure
138 concerning orders issued pursuant to subsection (b) of this section and
139 applications made pursuant to subsection (c) of this section in the
140 preceding calendar year. The report shall include the following
141 information: (1) The number of orders issued pursuant to subsection

142 (b) of this subsection and the number of applications submitted to
143 telecommunications carriers or providers of electronic communication
144 service or remote computing services pursuant to subsection (c) of this
145 section, (2) whether the order was directed to a telecommunications
146 carrier, provider of electronic communication service or provider of
147 remote computing service, (3) whether the information sought was
148 call-identifying information or basic subscriber information, (4) the
149 statutory offense or offenses that were the subject of the investigation,
150 (5) the number of notifications that were delayed pursuant to
151 subsection [(d)] (e) of this section, and the reason for such delayed
152 notification, (6) the number of motions to vacate an order that were
153 filed, and the number of motions granted or denied, (7) the number of
154 investigations concluded and the final result of such investigations,
155 and (8) the status of any criminal prosecution resulting from the
156 investigation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	54-47aa

Statement of Purpose:

To provide certain privacy protections to subscribers with telecommunications carriers or of remote computing services and to provide law enforcement officials the ability to file an application directly with the service provider to obtain geo-location data related to a subscriber under limited circumstances.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]