



**Substitute House Bill No. 5640**

**Public Act No. 16-148**

**AN ACT CONCERNING COMPELLED DISCLOSURE OF  
CELLULAR TELEPHONE AND INTERNET RECORDS AND FRAUD  
COMMITTED THROUGH TELEPHONE SOLICITATION.**

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

Section 1. Section 54-47aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) For the purposes of this section:

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

(2) "Call-identifying information" means dialing or signaling information that identifies the origin, direction, destination or termination of each communication generated or received by a subscriber or customer, excluding geo-location data, by means of any equipment, facility or service of a telecommunications carrier;

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

(4) "Exigent circumstance" means an emergency involving danger of serious physical injury to or death of a person;

(5) "Geo-location data" means information concerning the location of an electronic device, including the real-time and historical location of the device, that, in whole or in part, is generated by, derived from or obtained by the operation of an electronic device, including, but not limited to, a cellular telephone surveillance device;

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

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

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

(b) A law enforcement official may [request] apply for an ex parte order from a judge of the Superior Court to compel (1) a telecommunications carrier to disclose call-identifying information pertaining to a subscriber or customer, [or] (2) a provider of electronic communication service or remote computing service to disclose basic subscriber information pertaining to a subscriber or customer, or (3) a telecommunications carrier or a provider of electronic communication service or remote computing service to disclose the content of a subscriber's or customer's communications or geo-location data

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associated with a subscriber's or customer's call-identifying information. The judge shall grant such order if the law enforcement official [states] swears under oath to a statement of (A) a reasonable and articulable suspicion that a crime has been or is being committed [or that exigent circumstances exist] and such call-identifying or basic subscriber information is relevant and material to an ongoing criminal investigation, [ The order] in which case such order shall not authorize disclosure of the content of any communication or geo-location data, or (B) probable cause to believe that a crime has been or is being committed and the content of such subscriber's or customer's communications or the geo-location data associated with such subscriber's or customer's call-identifying information is relevant and material to an ongoing criminal investigation, in which case such order shall authorize the disclosure of such information, content or geo-location data. Any such order entered pursuant to this subsection shall state upon its face the case number assigned to such investigation, the date and time of issuance and the name of the judge authorizing the order. The law enforcement official shall have any ex parte order issued pursuant to this subsection signed by the authorizing judge within forty-eight hours or not later than the next business day, whichever is earlier. No order pursuant to this subsection shall authorize the disclosure of any such information, content or data for a period in excess of fourteen days.

(c) A law enforcement official may apply directly to a telecommunications carrier or provider of electronic communication service or remote computing service for production of geo-location data for a period not in excess of forty-eight hours, including real-time or historical geo-location data, or any combination of such data, pertaining to an identified subscriber or customer. The telecommunications carrier or provider of electronic telecommunication service or remote computing service may provide the requested geo-location data upon the applicant stating under oath:

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(1) That facts exist upon which to base a belief that the data sought is relevant and material to an ongoing criminal investigation; (2) a belief that exigent circumstances exist; and (3) the facts supporting the belief that exigent circumstances exist. Any subsequent application for information from the same telecommunication carrier or provider of electronic communication service or remote computing service for production of geo-location data in connection with the same investigation shall be made pursuant to subsection (b) of this section.

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

~~[(d)]~~ (e) Not later than forty-eight hours after the issuance of an order pursuant to subsection (b) of this section, the law enforcement official shall mail notice of the issuance of such order to the subscriber or customer whose call-identifying information or basic subscriber information is the subject of such order, except that such notification may be delayed for a period of up to ninety days upon the execution of a written certification of such official to the judge who authorized the order that there is reason to believe that notification of the existence of the order may result in (1) endangering the life or physical safety of an individual, (2) flight from prosecution, (3) destruction of or tampering with evidence, (4) intimidation of potential witnesses, or (5) otherwise seriously jeopardizing the investigation. The law enforcement official shall maintain a true copy of such certification. During such ninety-day period, the law enforcement official may request the court to extend such period of delayed notification. Such period may be extended beyond ninety days only upon approval of the court. The applicant shall file a copy of the notice with the clerk of the court that issued such order. If information is provided in response to the order, the

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applicant shall, not later than ten days after receiving such information, file with the clerk a return containing an inventory of the information received. If a judge finds there is a significant likelihood that such notification would seriously jeopardize the investigation and issues an order authorizing delayed notification under this subsection, the telecommunications carrier or provider of electronic communication service or remote computing service from whom the call-identifying information or basic subscriber information is sought shall not notify any person, other than legal counsel for the telecommunications carrier or provider of electronic communication service or remote computing service and the law enforcement official that requested the ex parte order, of the existence of the ex parte order. Any information provided in response to the court order shall be disclosed to the defense counsel.

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

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

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

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disclosed to the defense counsel.

[(g)] (i) Not later than January fifteenth of each year, each law enforcement official shall report to the Chief State's Attorney the information required by this subsection with respect to each order issued pursuant to subsection (b) of this section and each application made pursuant to subsection (c) of this section in the preceding calendar year. The Chief State's Attorney shall, based upon the reports filed by each law enforcement official and not later than January thirty-first of each year, submit a report, in accordance with the provisions of section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to criminal law and procedure concerning orders issued pursuant to subsection (b) of this section and applications made pursuant to subsection (c) of this section in the preceding calendar year. The report shall include the following information: (1) The number of orders issued pursuant to subsection (b) of this subsection and the number of applications submitted to telecommunications carriers or providers of electronic communication service or remote computing service pursuant to subsection (c) of this section, (2) whether the order was directed to a telecommunications carrier, provider of electronic communication service or provider of remote computing service, (3) whether the information sought was call-identifying information or basic subscriber information, (4) the statutory offense or offenses that were the subject of the investigation, (5) the number of notifications that were delayed pursuant to subsection [(d)] (e) of this section, and the reason for such delayed notification, (6) the number of motions to vacate an order that were filed, and the number of motions granted or denied, (7) the number of investigations concluded and the final result of such investigations, and (8) the status of any criminal prosecution resulting from the investigation.

Sec. 2. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of

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telephone fraud in the first degree when such person (1) knowingly or intentionally devises or participates in a scheme to defraud another person of money or property, (2) (A) employs false pretenses or false promises, as described in section 53a-119 of the general statutes, to obtain such money or property and the amount of such money or the value of such property exceeds twenty thousand dollars, or (B) regardless of its value, obtains such money or property by extortion, and (3) uses a telephonic call, including, but not limited to, a call made by an individual, an automated telephone call and a recorded message, to obtain such money or property from such other person.

(b) Telephone fraud in the first degree is a class B felony.

Sec. 3. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of telephone fraud in the second degree when such person (1) knowingly or intentionally devises or participates in a scheme to defraud another person of money or property, (2) employs false pretenses or false promises, as described in section 53a-119 of the general statutes, to obtain such money or property and the amount of such money or the value of such property exceeds ten thousand dollars, and (3) uses a telephonic call, including, but not limited to, a call made by an individual, an automated telephone call and a recorded message, to obtain such money or property from such other person.

(b) Telephone fraud in the second degree is a class C felony.

Sec. 4. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of telephone fraud in the third degree when such person (1) knowingly or intentionally devises or participates in a scheme to defraud another person of money or property, (2) employs false pretenses or false promises, as described in section 53a-119 of the general statutes, to obtain such money or property and the amount of such money or the value of such property exceeds two thousand dollars, and (3) uses a telephonic call, including, but not limited to, a call made by an

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individual, an automated telephone call and a recorded message, to obtain such money or property from such other person.

(b) Telephone fraud in the third degree is a class D felony.

Sec. 5. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of telephone fraud in the fourth degree when such person (1) knowingly or intentionally devises or participates in a scheme to defraud another person of money or property, (2) employs false pretenses or false promises, as described in section 53a-119 of the general statutes, to obtain such money or property and the amount of such money or the value of such property exceeds one thousand dollars, and (3) uses a telephonic call, including, but not limited to, a call made by an individual, an automated telephone call and a recorded message, to obtain such money or property from such other person.

(b) Telephone fraud in the fourth degree is a class A misdemeanor.

Sec. 6. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of telephone fraud in the fifth degree when such person (1) knowingly or intentionally devises or participates in a scheme to defraud another person of money or property, (2) employs false pretenses or false promises, as described in section 53a-119 of the general statutes, to obtain such money or property and the amount of such money or the value of such property exceeds five hundred dollars, and (3) uses a telephonic call, including, but not limited to, a call made by an individual, an automated telephone call and a recorded message, to obtain such money or property from such other person.

(b) Telephone fraud in the fifth degree is a class B misdemeanor.

Sec. 7. (NEW) (*Effective October 1, 2016*) (a) A person is guilty of telephone fraud in the sixth degree when such person (1) knowingly or intentionally devises or participates in a scheme to defraud another person of money or property, (2) employs false pretenses or false

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promises, as described in section 53a-119 of the general statutes, to obtain such money or property and the amount of such money or the value of such property is five hundred dollars or less, and (3) uses a telephonic call, including, but not limited to, a call made by an individual, an automated telephone call and a recorded message, to obtain such money or property from such other person.

(b) Telephone fraud in the sixth degree is a class C misdemeanor.

Approved June 9, 2016