



Memorandum

To: The Honorable Eric D. Coleman, Co-Chair, Joint Committee on Judiciary
The Honorable William Tong, Co-Chair, Joint Committee on Judiciary

Cc: Members of the Connecticut Legislature Joint Committee on Judiciary

From: Matt Mincieli, Northeast Region Executive Director, TechNet

Date: March 23, 2016

Re: Testimony offering amendments to HB 5640, An Act Concerning Compelled Disclosure of Cellular Telephone and Internet Records

Dear Senator Coleman, Representative Tong and members of the Joint Committee on Judiciary, my name is Matt Mincieli, and I am the Northeast Region executive director at TechNet, an industry association representing over 70 of the country's leading technology companies. Our Member companies represent the fields of information technology, high tech manufacturing, networking, clean energy, life sciences, Internet media, e-commerce, education, sharing economy and more. On behalf of our membership, we respectfully submit the following testimony offering amendments to HB 5640, as currently drafted, introduced by the Joint Committee on Judiciary.

TechNet is committed to advancing the public policies and private sector initiatives that make the U.S. the most innovative country in the world. Our concern with HB 5640 is that it, as currently drafted, would conflict with federal law by seeking to compel disclosure of location information without valid legal process and lead to confusion and administrative headaches for law enforcement and the technology sector in Connecticut.

Without a valid court order technology companies cannot turn over location information unless they have a good faith belief that an emergency involving imminent risk to life or limb necessitates disclosure. The last thing a technology company wants is for responses to emergencies to be delayed because law enforcement does not provide sufficient information to permit them to make a lawful voluntary disclosure.

Below is amendment language in bold that we believe if was added at the end of subsection (c) of the bill would help alleviate any potential conflict with federal law and allow for telecommunication companies and electronic communication service providers the legal protection they are afforded to work in good faith with law enforcement while also protecting the privacy of Connecticut consumers:

(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 shall provide the requested geo-location data upon the applicant stating under oath: (1) That facts exist upon which to base a belief that the data sought is material and relevant to an ongoing investigation; (2) a belief that an exigent circumstance exists; and (3) the facts supporting the belief that an exigent circumstance exists. 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. Nothing in this subsection shall be construed to require a provider of electronic communications service or remote computing service to disclose a record or other information pertaining to a subscriber or customer of such service if the provider does not, in good faith, believe that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.

In closing, TechNet thanks you for your attention to our testimony and, on behalf of our membership, respectfully ask that you carefully consider the implications on the Connecticut technology sector of passing HB 5640 as currently drafted. If we can be of any assistance to you and your Committee as you deliberate this important legislation, please feel free to consider us a resource and contact me at mmincieli@technet.org.