



Prepared Remarks on HB 127
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Energy, Utilities, and Telecommunications Committee
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Good afternoon, Chairman Parsons and Members of the Committee. My name is Vasu Abhiraman, and I am the Policy Counsel for the ACLU of Georgia. The ACLU of Georgia is an organization dedicated to protecting the civil liberties of all Georgians, including the fundamental right to privacy safeguarded by our state and federal constitutions. I am testifying today on behalf of the ACLU of Georgia in opposition to H.B. 127. Although we agree with the important safety goals of the legislation, we oppose the bill in its current form, because it lacks sufficient safeguards against abuse.

Under current Georgia law, law enforcement must generally get a warrant to access cell phone location information. Wireless service suppliers can, however, voluntarily provide location information to law enforcement without a warrant when the service supplier reasonably believes that there is an emergency.

H.B. 127 in its current form would require service suppliers to disclose their customers' location information to any law enforcement official who asserts that an emergency situation exists. The tragedy that gave rise to this legislation was truly terrible, and we all want to ensure that law enforcement can quickly access cell phone location information to avoid such tragic outcomes. Current law, however, already allows service suppliers to quickly and effectively assist law enforcement while preventing abuse that could jeopardize the safety of others.

Today, service suppliers are well equipped to quickly and efficiently respond to emergency requests by law enforcement. In the first half of 2020, the nation's two largest service providers—AT&T and Verizon—processed over 97,000 emergency requests for information. These and the other service providers maintain large law enforcement compliance teams that operate around the clock, responding to requests at any hour in order to help avoid tragedies like the one that gave rise to this bill. This process has only continued to be refined and improved in recent years.

Service supplier discretion is an important check against false or overzealous invocations of emergencies by law enforcement agencies who want to gather evidence without getting a warrant. This discretion also allows service suppliers to vet requests from criminals and stalkers who impersonate law enforcement to get the location information of current or potential victims. As written, service suppliers would be

required to honor requests without any documentation of the emergency and would not face any consequences if the information was later abused by law enforcement or law enforcement impersonators.

Effective privacy safeguards can coexist with speedy emergency request procedures without interfering with law enforcement's important job of protecting the public. The ACLU of Georgia therefore puts the following recommendations before the Committee.

First, the Committee should simply preserve the existing system, which allows service suppliers to assist law enforcement in emergency situations but keeps important safety valves in place to protect customer privacy. Current law in Georgia mirrors the standard in federal law, which has proved effective when emergencies arise.

Second, should the Committee move forward with H.B. 127, it should add protections for customer privacy. Law enforcement should be required to get after-the-fact approval from a judge, so that a neutral decision-maker can ensure that the claimed emergency was genuine. In cases where the emergency was not genuine, any evidence obtained through the request should be suppressed and a significant civil remedy should exist for those affected.

Third, law enforcement should be required to give after-the-fact notice to any person whose location information was obtained in order to allow that person to seek redress if law enforcement violated the law or learn if someone may have impersonated an officer to illegally obtain information.

Fourth, law enforcement should be required to document and retain all requests for location information made under the statute.

Fifth, the language in Section 2, part (b) should make clear that law enforcement must have "probable cause" to believe that an emergency exists. A probable cause standard will help ensure that sensitive location records are obtained only when there is good reason to believe an emergency situation exists.

The same features of cell phone location information that make it useful to law enforcement are also exactly why the U.S. Supreme Court has recognized that such information is protected by the Fourth Amendment. Cell phone location information can invade reasonable expectations of privacy by laying bare some of the most sensitive aspects of our lives: when we are at home, where we spend the night, where we worship, which doctors or psychiatrists we visit, and more. We therefore urge the committee to reject the bill as drafted. Thank you, and I look forward to answering any questions the committee may have.