

PHONE RECORD SALES

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Senate Bill 1202

Sponsor: Sen. Bruce Patterson

House Committee: Energy and Technology

Senate Committee: Technology and Energy

Complete to 5-25-06

A SUMMARY OF SENATE BILL 1202 AS PASSED BY THE SENATE 5-11-06

The bill would amend Section 5 of the Identity Theft Protection Act 1) to prohibit a person from using the personal identifying information of another person to obtain a confidential telephone record; and 2) to add Section 5a, which would prohibit a person from doing any of the following:

--Knowingly procuring, attempting to procure, or soliciting or conspiring with another to procure a confidential telephone record of any Michigan resident without the authorization of the customer to whom the record pertained or by fraudulent, deceptive, or false means.

--Knowingly selling or attempting to sell a confidential telephone record of any state resident without the authorization of the customer to whom the record pertains.

--Receiving a confidential telephone record of any state resident, knowing that the record was obtained without the authorization of the customer to whom the record pertained or by fraudulent, deceptive, or false means.

[Generally speaking, a violation of Section 5 is a felony punishable by imprisonment for up to five years and/or a fine of up to \$25,000.]

Under the bill, "confidential telephone record" would mean the following:

--Information relating to the quantity, technical configuration, type, destination, location, and amount of use of a service offered by a telecommunication provider subscribed to by any customer of that provider.

--Information made available to a telecommunication provider by a customer solely by virtue of the relationship between the provider and the customer.

--Information contained in any bill related to the product or service offered by a provider and received by any customer of that provider.

[A telecommunication provider would be a provider as defined in the Michigan Telecommunications Act; a provider of IP-enabled voice service (over the Internet); or a

provider of any telecommunications service, such as cell phone service, broadband personal communication service, or covered special mobile radio.]

The bill would not prohibit any action by a law enforcement agency from obtaining confidential telephone records in connection with the performance of official duties.

The bill also would not prohibit a telecommunication provider from obtaining, using, disclosing, or permitting access to any confidential telephone record, directly or indirectly, through its agents, subcontractors, affiliates, or representatives in the normal course of business. The bill would not expand the obligations and duties of a telecommunication provider to protect confidential telephone records beyond those obligations and duties otherwise established by federal and state law.

MCL 445.65 et al.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on state and local government, depending on the number of convictions for the new offenses. A violation of Section 5 is a felony punishable by up to five years' imprisonment and/or a maximum fine of \$25,000. The state could experience increased costs of prison incarceration, which currently average about \$30,000 per prisoner per year, and felony probation supervision, at about \$2,000 per supervised offender per year. Counties could experience increased costs due to jail sentences imposed; those costs vary from county to county. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

Legislative Analyst: Chris Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.