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**BILL ANALYSIS**

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Senate Bill 1202 (as introduced 3-30-06)  
Sponsor: Senator Bruce Patterson  
Committee: Technology and Energy

Date Completed: 5-3-06

**CONTENT**

**The bill would amend the Identity Theft Protection Act to prohibit a person from using the personal identifying information of another person to obtain his or her confidential telephone record; and from knowingly procuring, selling, or receiving the confidential telephone record of another person without his or her authorization.**

Section 5 of the Act prohibits a person from using or attempting to use the personal identifying information of another person to obtain credit, goods, services, money, property, a vital record, medical records or information, or employment, or to commit another unlawful act, either with intent to defraud or violate the law, or by concealing, withholding, or misrepresenting the violator's identity. The bill also would prohibit a person from engaging in those acts to obtain a confidential telephone record.

(A violation of Section 5 is a felony punishable by up to five years' imprisonment and/or a maximum fine of \$25,000. The Act defines "personal identifying information" as a name, number, or other information that is used for the purpose of identifying a specific person or providing access to a person's financial accounts; the term includes, for example, a driver license number, telephone number, Social Security number, credit card number, and mother's maiden name.)

The bill would add Section 5a to 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 Michigan resident without the authorization of the customer to whom the record pertained.
- Receiving a confidential telephone record of any Michigan 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.

The bill specifies that nothing in proposed Section 5a would prohibit any action by a law enforcement agency or any officer, employee, or agent of a law enforcement agency from obtaining confidential telephone records in connection with the performance of the agency's official duties. Additionally, it would not prohibit a telecommunication provider from obtaining, using, disclosing, or permitting access to any confidential telephone record, either

directly or indirectly, through its agents, subcontractors, affiliates, or representatives in the normal course of business or as otherwise authorized by law.

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

- Information that relates 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 that is 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.

"Telecommunication provider" would mean that term as it is defined in the Michigan Telecommunications Act (MTA), and would include any provider of IP-enabled voice service. The MTA defines "telecommunication provider" as a person that for compensation provides one or more telecommunication services. "IP-enabled voice service" would mean an interconnected voice over internet protocol service that enables real-time, two-way voice communications, requires a broadband connection from the user's location using IP-compatible equipment, and permits users generally to receive calls that originate on and to terminate calls to the public switched telephone network.

"Telecommunication service" would mean that term as defined in the MTA (regulated and unregulated services offered to customers for the transmission of two-way interactive communication and associated usage) and would include cellular telephone service, broadband personal communication service, and covered specialized mobile radio.

MCL 445.65 et al.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of obtaining a confidential telephone record involving the proposed factors. There also are no data to indicate how many offenders have been convicted of violating the Identity Theft Protection Act. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.