

By Senator Aronberg

27-1044A-06

1                                   A bill to be entitled  
2           An act relating to telephone calling records;  
3           prohibiting a person from obtaining or  
4           attempting to obtain the calling record of  
5           another person by making false or fraudulent  
6           statements or by providing false or fraudulent  
7           documents to a telecommunications company, or  
8           by selling or offering to sell a calling record  
9           that was obtained in a fraudulent manner;  
10          providing that it is a first-degree misdemeanor  
11          to commit a first violation and a third-degree  
12          felony to commit a second or subsequent  
13          violation; providing penalties; providing that  
14          it is not a violation of the act for a law  
15          enforcement agency, telecommunications company,  
16          or private investigator to obtain calling  
17          records for specified purposes; providing an  
18          effective date.

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20 Be It Enacted by the Legislature of the State of Florida:  
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22           Section 1. Obtaining telephone calling records by  
23 fraudulent means prohibited.--

24           (1) As used in this section, the term:

25           (a) "Calling record" means a record held by a  
26 telecommunications company of the telephone calls made by a  
27 customer of that company.

28           (b) "Customer" means a person who has received  
29 telephone service from a telecommunications company.

30           (c) "Law enforcement agency" has the same meaning as  
31 in s. 23.1225(1)(d), Florida Statutes.

1           (d) "Telecommunications company" has the same meaning  
2 as in s. 364.02, Florida Statutes, except that the term  
3 includes VoIP service and excludes broadband service.

4           (2) It is a violation of this section for a person to:

5           (a) Obtain or attempt to obtain the calling record of  
6 another person by:

7           1. Making a false, fictitious, or fraudulent statement  
8 or representation to an officer, employee, or agent of a  
9 telecommunications company;

10           2. Making a false, fictitious, or fraudulent statement  
11 or representation to a customer of a telecommunications  
12 company; or

13           3. Providing any document to an officer, employee, or  
14 agent of a telecommunications company, knowing that the  
15 document is forged, is counterfeit, was lost or stolen, was  
16 fraudulently obtained, or contains a false, fictitious, or  
17 fraudulent statement or representation.

18           (b) Ask another person to obtain a calling record,  
19 knowing that the other person will obtain, or attempt to  
20 obtain, the calling record from the telecommunications company  
21 in any manner described in paragraph (a).

22           (c) Sell or offer to sell a calling record obtained in  
23 any manner described in paragraph (a) or paragraph (b).

24           (3) A person who violates this section for the first  
25 time commits a misdemeanor of the first degree, punishable as  
26 provided in s. 775.082 or s. 775.083, Florida Statutes. A  
27 second or subsequent violation constitutes a felony of the  
28 third-degree, punishable as provided in s. 775.082 or s.  
29 775.083, Florida Statutes.

30           (4) It is not a violation of this section for:  
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1           (a) A law enforcement agency to obtain a calling  
2 record in connection with the performance of the official  
3 duties of that agency.

4           (b) A telecommunications company, or an officer,  
5 employee, or agent of a telecommunications company, to obtain  
6 a calling record of that company in the course of:

7           1. Testing the security procedures or systems of the  
8 telecommunications company for maintaining the confidentiality  
9 of customer information;

10           2. Investigating an allegation of misconduct or  
11 negligence on the part of an officer, employee, or agent of  
12 the telecommunications company; or

13           3. Recovering a calling record that was obtained or  
14 received by another person in any manner described in  
15 subsection (2).

16           (c) A person to obtain a calling record that otherwise  
17 is available as a public record under chapter 119, Florida  
18 Statutes.

19           (d) A private investigator licensed under part II of  
20 chapter 493, Florida Statutes, or an officer, employee, or  
21 agent of such an investigator, to obtain a calling record to  
22 the extent reasonably necessary to collect child support from  
23 a person adjudged to be delinquent in his or her obligations  
24 by a court and as authorized by a court order.

25           Section 2. This act shall take effect July 1, 2006.

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28           SENATE SUMMARY

29           Makes acquisition, disclosure, or sale of a telephone  
30           calling record under fraudulent pretext a crime.  
31           Establishes penalties and exceptions. (See bill for  
              details.)