

HB 871

2006
CS

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

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3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Obtaining telephone calling records by
 24 fraudulent means prohibited.--
 25 (1) As used in this section, the term:
 26 (a) "Calling record" means a record held by a
 27 telecommunications company of the telephone calls made or text
 28 messages sent or received by a customer of that company.
 29 (b) "Customer" means a person who has received telephone
 30 service from a telecommunications company.
 31 (c) "Law enforcement agency" has the same meaning as in s.
 32 23.1225(1)(d), Florida Statutes.
 33 (d) "Telecommunications company" has the same meaning as
 34 in s. 364.02, Florida Statutes, except that the term includes
 35 VoIP service and commercial mobile radio service providers.
 36 (2) It is a violation of this section for a person to:
 37 (a) Obtain or attempt to obtain the calling record of
 38 another person without the permission of that person by:
 39 1. Making a false, fictitious, or fraudulent statement or
 40 representation to an officer, employee, or agent of a
 41 telecommunications company;
 42 2. Making a false, fictitious, or fraudulent statement or
 43 representation to a customer of a telecommunications company; or
 44 3. Providing any document to an officer, employee, or
 45 agent of a telecommunications company, knowing that the document
 46 is forged, is counterfeit, was lost or stolen, was fraudulently
 47 obtained, or contains a false, fictitious, or fraudulent
 48 statement or representation.
 49 (b) Ask another person to obtain a calling record, knowing
 50 that the other person will obtain, or attempt to obtain, the

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51 calling record from the telecommunications company in any manner
52 described in paragraph (a).

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

55 (3) A person who violates this section for the first time
56 commits a misdemeanor of the first degree, punishable as
57 provided in s. 775.082 or s. 775.083, Florida Statutes. A second
58 or subsequent violation constitutes a felony of the third
59 degree, punishable as provided in s. 775.082 or s. 775.083,
60 Florida Statutes.

61 (4) It is not a violation of this section for:

62 (a) A law enforcement agency to obtain a calling record in
63 connection with the performance of the official duties of that
64 agency in accordance with other applicable laws.

65 (b) A telecommunications company, or an officer, employee,
66 or agent of a telecommunications company, to obtain a calling
67 record of that company in the course of:

68 1. Testing the security procedures or systems of the
69 telecommunications company for maintaining the confidentiality
70 of customer information;

71 2. Investigating an allegation of misconduct or negligence
72 on the part of an officer, employee, or agent of the
73 telecommunications company; or

74 3. Recovering a calling record that was obtained or
75 received by another person in any manner described in subsection
76 (2).

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