

ENROLLED  
 HB 871, Engrossed 1

2006 Legislature

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

16  
 17 Be It Enacted by the Legislature of the State of Florida:

18  
 19           Section 1. Obtaining telephone calling records by  
 20 fraudulent means prohibited.--

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

22           (a) "Calling record" means a record held by a  
 23 telecommunications company of the telephone calls made or text  
 24 messages sent or received by a customer of that company.

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

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27        (c) "Law enforcement agency" has the same meaning as in s.  
28 23.1225(1)(d), Florida Statutes.

29        (d) "Telecommunications company" has the same meaning as  
30 in s. 364.02, Florida Statutes, except that the term includes  
31 VoIP service and commercial mobile radio service providers.

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

33        (a) Obtain or attempt to obtain the calling record of  
34 another person without the permission of that person by:

35        1. Making a false, fictitious, or fraudulent statement or  
36 representation to an officer, employee, or agent of a  
37 telecommunications company;

38        2. Making a false, fictitious, or fraudulent statement or  
39 representation to a customer of a telecommunications company; or

40        3. Providing any document to an officer, employee, or  
41 agent of a telecommunications company, knowing that the document  
42 is forged, is counterfeit, was lost or stolen, was fraudulently  
43 obtained, or contains a false, fictitious, or fraudulent  
44 statement or representation.

45        (b) Ask another person to obtain a calling record, knowing  
46 that the other person will obtain, or attempt to obtain, the  
47 calling record from the telecommunications company in any manner  
48 described in paragraph (a).

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

51        (3) A person who violates this section for the first time  
52 commits a misdemeanor of the first degree, punishable as  
53 provided in s. 775.082 or s. 775.083, Florida Statutes. A second

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54 or subsequent violation constitutes a felony of the third  
 55 degree, punishable as provided in s. 775.082 or s. 775.083,  
 56 Florida Statutes.

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

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

61 (b) A telecommunications company, or an officer, employee,  
 62 or agent of a telecommunications company, to obtain a calling  
 63 record of that company in the course of:

64 1. Testing the security procedures or systems of the  
 65 telecommunications company for maintaining the confidentiality  
 66 of customer information;

67 2. Investigating an allegation of misconduct or negligence  
 68 on the part of an officer, employee, or agent of the  
 69 telecommunications company; or

70 3. Recovering a calling record that was obtained or  
 71 received by another person in any manner described in subsection  
 72 (2).

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