

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4830-03  
Bill No.: HB 1632  
Subject: Crimes and Punishment; Telecommunications  
Type: Original  
Date: February 20, 2006

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Office of State Courts Administrator** assume there will be no fiscal impact on the Courts.

Officials from the **Department of Public Safety - Office of the Director** and the **Office of Secretary of State - Administrative Rules Division** state there will be no fiscal impact to their respective agencies.

Officials from the **Office of Attorney General** anticipate that any appeals pursued under the provisions of the proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development - Public Service Commission (PSC)** and **Office of Public Counsel** state this proposal will not have a significant fiscal impact on their agency. The PSC will have to modify its existing rule on the release of customer proprietary network information to maintain consistency with legislation.

Officials from the **Office of Prosecution Services** state this proposal will not have a significant fiscal impact on county prosecutors, although it may lead to an increase in prosecutions/caseloads.

ASSUMPTION (continued)

According to officials from the **Department of Corrections (DOC)**, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of State Public Defender** did not response to a request for fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2007	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2007	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposed legislation creates the crime of knowingly receiving, selling, or obtaining land-line or cellular telephone records without a customer's consent. Exemptions include the actions of law enforcement officers performing their official duties, lawful use of the records in order to provide service, the use of records pursuant to the Victims of Child Abuse Act of 1990, and the

DESCRIPTION (continued)

emergency use of records to prevent death or serious injury.

Customers and telecommunications companies can recover actual damages, illicit profits, and punitive damages from persons who violate these provisions. There is a two-year statute of limitation on the civil actions.

The proposal does not create any new cause of action against telecommunications companies, but does require them to establish reasonable procedures to guard against the theft of telephone records.

This legislation is not federally mandated and would not require additional capital improvements or rental space.

Regarding the subject of duplication, the PCS states the Federal Communications Commission, through 47 CFR 64 Subpart U has established guidelines for the release of customer proprietary network information (CPNI), which is defined as information that relates to the quantity, technical configuration, type, destination and amount of use of a telecommunications service subscribed to by any customer of a telecommunications carrier, and that is made available to the carrier by the customer solely by virtue of the customer-carrier relationship and information contained in the bills pertaining to telephone service. The PSC, through 4 CSR 240-33.160, has also implemented guidelines addressing the release of customer proprietary network information. The federal rules apply to wireline and wireless providers. The state rules apply to wireline providers. Also, the FCC is currently reviewing the issue of the inappropriate sale of wireless records.

**SOURCES OF INFORMATION**

Department of Public Safety  
    Office of the Director  
Department of Economic Development  
    Public Service Commission  
    Office of Public Counsel  
Office of State Courts Administrator  
Department of Corrections  
Office of Prosecution Services  
Office of Attorney General  
Office of Secretary of State  
    Administrative Rules Division

**NOT RESPONDING**

Office of State Public Defender

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
February 20, 2006