

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0111-01  
Bill No.: SB 210  
Subject: Business and Commerce; Consumer Protection; Courts; Crimes and Punishment;  
 Merchandising Practices; Telecommunications  
Type: Original  
Date: January 31, 2007

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Bill Summary:           Modifies consumer protection law regarding telephone communication.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>	<b>(Less than \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2008	FY 2009	FY 2010
<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 6 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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## **FISCAL ANALYSIS**

### ASSUMPTION

Officials from the **Office of Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Economic Development - Public Service Commission** and **Office of Public Counsel** assume there will be no fiscal impact to their respective agencies.

Officials from the **Office of Prosecution Services (OPS)** state that in the absence of estimates as to the number of increased cases that would be referred to County Prosecutors for charges because of this proposed legislation, it is difficult to determine if this proposal would have a significant direct fiscal impact on county prosecutors or OPS. It is presently assumed, in the absence of such estimates, that there would not be a significant number of cases referred for prosecution and therefore prosecutors would not experience a significant direct fiscal impact.

Officials from the **Office of State Courts Administrator** state this proposal has no fiscal impact on the Courts.

Officials from the **Office of Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact to the SOS office for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

Officials from the **Office of the State Public Defender (SPD)** assume existing staff could not provide competent, effective representation for any cases arising where indigent persons were charged with the proposed expanded crime of making it a felony to obtain, receive, or sell a telephone record without the consent of the customer. SPD assumes this new crime will require more SPD resources. While the number of new cases may be too few or uncertain to request additional appropriations for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

**Oversight** assumes the SPD could absorb the costs of the proposed legislation within existing

ASSUMPTION (continued)

resources. Oversight assumes any significant increase in the workload of the SPD would be reflected in future budget requests.

Currently, officials from the **Department of Corrections (DOC)** cannot predict the number of new commitments which may result from the enhancement 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 either through incarceration (FY06 average of \$39.43 per inmate, per day or an annual cost of \$14,394 per inmate) or through supervision provided by the Board of Probation and Parole (FY06 average of \$2.52 per offender, per day or an annual cost of \$920 per offender).

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new enhancement, it is assumed the impact would be less than \$100,000 per year for the DOC. (§ 570.222 and § 570.223)

<u>FISCAL IMPACT - State Government</u>	FY 2008	FY 2009	FY 2010
<b>GENERAL REVENUE FUND</b>			
<u>Costs – Department of Corrections</u>			
Incarceration/probation costs (§ 570.222 and § 570.223)	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )	(Less than <u>\$100,000</u> )
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>	<b><u>(Less than \$100,000)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2008	FY 2009	FY 2010
	<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.

### FISCAL DESCRIPTION

#### § 570.222

This proposal creates a crime of knowingly obtaining, receiving or selling telephone records without customer consent with exceptions for law enforcement and public welfare. Telephone records are defined as telephone numbers dialed by the customer, telephone numbers of incoming calls to the customer, and other data typically contained in telephone bills such as call times, duration, and charges applied. The crime is a felony subject to punishment by fine or imprisonment, with increasing fine amounts and/or length of sentences based on number of records illegally handled.

#### § 570.223

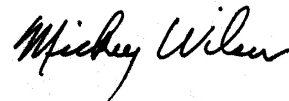
This proposal also expands the definition of identity theft to include telephone records as a means of identification.

An emergency clause makes the changes to these two sections effective upon passage and approval.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

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



Mickey Wilson, CPA  
Director  
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