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## HOUSE BILL NO. 1518

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice  
on February 10, 2006)

(Patrons Prior to Substitute—Delegates Albo, Scott, J.M. [HB1080], and Purkey [HB1500])

A BILL to amend the Code of Virginia by adding in Chapter 5 of Title 18.2 an article numbered 7.2, consisting of a section numbered 18.2-152.17, relating to fraudulent procurement of telephone records; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 5 of Title 18.2 an article numbered 7.2, consisting of a section numbered 18.2-152.17, as follows:

## Article 7.2.

*Unauthorized or Fraudulent Procurement, Sale, or Receipt of Telephone Records.*

§ 18.2-152.17. Unauthorized or fraudulent procurement, sale, or receipt of telephone records.

A. Whoever (i) knowingly procures, attempts to procure, solicits, or conspires with another to procure a telephone record without the authorization of the customer to whom the record pertains or by fraudulent, deceptive, or false means; (ii) knowingly sells, or attempts to sell, a telephone record without the authorization of the customer to whom the record pertains; or (iii) receives a telephone record knowing that such record has been obtained without the authorization of the customer to whom the record pertains or by fraudulent, deceptive, or false means shall be punished in accordance with subsection B.

B. The punishment for an offense under subsection A is (i) a Class 3 misdemeanor if the violation involves a single telephone record, (ii) a Class 2 misdemeanor if the violation involves two to 10 telephone records, (iii) a Class 1 misdemeanor if the violation involves more than 10 telephone records, and (iv) in any case, forfeiture of any personal property used or intended to be used to commit the offense.

C. As used in this section.

"Procure" in regard to such a telephone record means to obtain by any means, whether electronically, in writing, or in oral form, with or without consideration.

"Telephone record" means information retained by a telecommunications carrier that relates to the telephone number dialed by the customer or the incoming number of a call directed to a customer, or other data related to such calls typically contained on a customer telephone bill such as the time the call started and ended, the duration of the call, the time of day the call was made, and any charges applied.

D. Nothing in this section shall be construed to prevent any action by a law-enforcement agency, or any officer or employee of such agency, to obtain telephone records in connection with the performance of the official duties of the agency.

E. Nothing in this section shall be construed to prohibit a telecommunications carrier from obtaining, using, disclosing, or permitting access to any telephone record, either directly or indirectly through its agents (i) as otherwise authorized by law; (ii) with the lawful consent of the customer or subscriber; (iii) as may be necessarily incident to the rendition of the service or to the protection of the rights or property of the provider of that service, or to protect users of those services and other carriers from fraudulent, abusive, or unlawful use of, subscription to, such services; (iv) to a governmental entity, if the telecommunications carrier reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person justifies disclosure of the information; or (v) to the National Center for Missing and Exploited Children, in connection with a report submitted thereto under the Victims of Child Abuse Act of 1990.