

Department of Planning and Budget 2006 Fiscal Impact Statement

1. Bill Number HB 1518

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron Delegate Albo

3. Committee Courts of Justice

4. Title Fraudulent procurement of telephone records; penalty.

5. Summary/Purpose:

This bill creates a civil cause of action and a Class 1, 2, or 3 misdemeanor resulting from unauthorized or fraudulent procurement, sale, or receipt of telephone records. In the civil action, the court may assess as damages the sum of the actual damages suffered by the plaintiff and any profits made by the violator, but in no case less than \$1,000. The civil action must be initiated within two years from the time that the violation is discovered.

The misdemeanors involve:

- Knowingly procuring, attempting to procure, soliciting, or conspiring with another to procure a telephone record without authorization by fraudulent, deceptive, or false means;
- Knowingly selling, or attempting to sell, a telephone record without authorization; or
- Receiving a telephone record knowing that it was obtained without authorization by fraudulent, deceptive, or false means.

The punishment will be:

- A Class 3 misdemeanor if the violation involves a single telephone record of a Virginia resident,
- A Class 2 misdemeanor if the violation involves two to 10 telephone records,
- A Class 1 misdemeanor if the violation involves more than 10 telephone records, and
- Forfeiture of any personal property used or intended to be used to commit the offense.

6. Fiscal Impact Estimates are: Indeterminate

7. Budget amendment necessary: N/A

8. Fiscal implications: Currently, there is insufficient information available to reliably estimate how many violations could result from this proposed legislation. However, any fines collected under these provisions would be deposited to the Literary Fund.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine not exceeding \$2,500. For a Class 2 misdemeanor conviction, the sentence could be up to six months in jail and a fine of not more than \$1,000. In the case of a Class 3 misdemeanor, the fine is not more than \$500. In those cases involving Class 1 and Class 2 misdemeanors where incarceration is imposed, any increase in the jail population will increase costs to the state. The Commonwealth pays the localities \$8.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds the majority of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. According to the Compensation Board's most recent Jail Cost Report (FY 2004), the estimated total state support for local jails averaged \$26.03 per inmate, per day in FY 2004.

9. Specific agency or political subdivisions affected: N/A

10. Technical amendment necessary: N/A

11. Other comments: None.

Date: 01/25/06 / sas

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