

House Bill No. 871

An act relating to telephone calling records; providing definitions; prohibiting a person from obtaining or attempting to obtain the calling record of another person by making false or fraudulent statements or providing false or fraudulent documents to a telecommunications company or by selling or offering to sell a calling record that was obtained in a fraudulent manner; providing that it is a first-degree misdemeanor to commit a first violation and a third-degree felony to commit a second or subsequent violation; providing penalties; providing that it is not a violation of the act for a law enforcement agency or telecommunications company to obtain calling records for specified purposes; providing an effective date.

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

Section 1. Obtaining telephone calling records by fraudulent means prohibited.—

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

(a) “Calling record” means a record held by a telecommunications company of the telephone calls made or text messages sent or received by a customer of that company.

(b) “Customer” means a person who has received telephone service from a telecommunications company.

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

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

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

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

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

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

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

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

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

(3) A person who violates this section for the first time commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes. A second or subsequent violation constitutes a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

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

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

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

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

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

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

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

Approved by the Governor June 9, 2006.

Filed in Office Secretary of State June 9, 2006.