

**SENATE AMENDMENT 5,
TO 1999 SENATE BILL 277**

November 9, 1999 – Offered by Senator ERPENBACH.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 11: after “corrections;” insert “contract authority of the
3 department of corrections; prisoner access to personal information of persons who
4 are not prisoners; requiring prisoners conducting telephone solicitations or
5 answering toll-free telephone numbers to identify themselves as prisoners;”.

6 **2.** Page 8, line 19: after that line insert:

7 “**SECTION 7n.** 134.73 of the statutes is created to read:

8 **134.73 Identification of prisoner making telephone solicitation. (1)**

9 DEFINITIONS. In this section:

10 (a) “Contribution” has the meaning given in s. 440.41 (5).

11 (b) “Prisoner” means a prisoner of any public or private correctional or
12 detention facility that is located within or outside this state.

13 (c) “Solicit” has the meaning given in s. 440.41 (8).

1 (d) “Telephone solicitation” means the unsolicited initiation of a telephone
2 conversation for any of the following purposes:

- 3 1. To encourage a person to purchase property, goods or services.
- 4 2. To solicit a contribution from a person.
- 5 3. To conduct an opinion poll or survey.

6 **(2) REQUIREMENTS.** A prisoner who makes a telephone solicitation shall do all
7 of the following immediately after the person called answers the telephone:

8 (a) Identify himself or herself by name.

9 (b) State that he or she is a prisoner.

10 (c) Inform the person called of the name of the correctional or detention facility
11 in which he or she is a prisoner and the city and state in which the facility is located.

12 **(3) TERRITORIAL APPLICATION.** (a) *Intrastate.* This section applies to any
13 intrastate telephone solicitation.

14 (b) *Interstate.* This section applies to any interstate telephone solicitation
15 received by a person in this state.

16 **(4) PENALTIES.** (a) A prisoner who violates this section may be required to forfeit
17 not more than \$500.

18 (b) If a person who employs a prisoner to engage in telephone solicitation is
19 concerned in the commission of a violation of this section as provided under s. 134.99,
20 the person may be required to forfeit not more than \$10,000.

21 **SECTION 70.** 134.95 (2) of the statutes is amended to read:

22 134.95 **(2) SUPPLEMENTAL FORFEITURE.** If a fine or a forfeiture is imposed on a
23 person for a violation under s. 100.171, 100.173, 100.174, 100.175, 100.177, 134.71,
24 134.72, 134.73 or 134.87 or ch. 136 or a rule promulgated under these sections or that
25 chapter, the person shall be subject to a supplemental forfeiture not to exceed

1 \$10,000 for that violation if the conduct by the defendant, for which the fine or
2 forfeiture was imposed, was perpetrated against an elderly person or disabled person
3 and if any of the factors under s. 100.264 (2) (a), (b) or (c) is present.

4 **SECTION 7pg.** 196.208 (5p) of the statutes is created to read:

5 196.208 (5p) TOLL-FREE CALLS ANSWERED BY PRISONERS. (a) In this subsection:

6 1. “Charitable organization” has the meaning given in s. 440.41 (1).

7 2. “Prisoner” has the meaning given in s. 134.73 (1) (b).

8 (b) If a prisoner is employed directly or indirectly by a charitable organization
9 or toll-free service vendor to answer calls made to the charitable organization or
10 toll-free service vendor, the prisoner shall do all of the following immediately upon
11 answering a call:

12 1. Identify himself or herself by name.

13 2. State that he or she is a prisoner.

14 3. Inform the calling party of the name of the correctional or detention facility
15 in which he or she is a prisoner and the city and state in which the facility is located.

16 (c) A charitable organization or toll-free service vendor that directly or
17 indirectly employs a prisoner shall provide reasonable supervision of the prisoner to
18 assure the prisoner’s compliance with par. (b).

19 **SECTION 7pq.** 196.208 (10) (a) of the statutes is amended to read:

20 196.208 (10) (a) Subsections (2) to (5) apply to any pay-per-call service that
21 a caller may access by a call originating in this state and ~~sub. (5p) and (5t)~~
22 applies apply to any charitable organization, toll-free service vendor or employe of
23 a charitable organization or toll-free service vendor that a caller may access by a call
24 originating in this state.

1 **SECTION 7qg.** 196.208 (11) (d) of the statutes is renumbered 196.208 (11) (d) 1.
2 and amended to read:

3 196.208 **(11)** (d) 1. ~~Any~~ Except as provided in subd. 2., any person who violates
4 subs. (2) to (9) shall be required to forfeit not less than \$25 nor more than \$5,000 for
5 each offense.

6 3. Forfeitures under ~~this paragraph~~ subds. 1. and 2. shall be enforced by action
7 on behalf of the state by the department of justice or, upon informing the department
8 of justice, by the district attorney of the county where the violation occurs.

9 **SECTION 7qq.** 196.208 (11) (d) 2. of the statutes is created to read:

10 196.208 **(11)** (d) 2. a. A prisoner who violates sub. (5p) (b) may be required to
11 forfeit not more than \$500.

12 b. A person who employs a prisoner to answer calls made to a toll-free
13 telephone number may be required to forfeit not more than \$10,000 if the person
14 violates sub. (5p) (c), aids and abets a prisoner's violation of sub. (5p) (b), is a party
15 to a conspiracy with a prisoner to commit a violation of sub. (5p) (b) or advises, hires
16 or counsels or otherwise procures a prisoner to commit a violation of sub. (5p) (b).”.

17 **3.** Page 10, line 22: after that line insert:

18 “**SECTION 12t.** 302.091 of the statutes is created to read:

19 **302.091 Contracts requiring prisoners to perform data entry or**
20 **telemarketing services.** The department may not enter into any contract or other
21 agreement if, in the performance of the contract or agreement, a prisoner would
22 perform data entry or telemarketing services and have access to any personal
23 identifying information, as defined in s. 943.201 (1) (b), of an individual who is not
24 a prisoner.”.

