

1999 DRAFTING REQUEST

Senate Floor Amendment (SA5-SB277)

Received: 11/10/1999

Received By: mdsida

Wanted: Today

Identical to LRB:

For: Senate Chief Clerk

By/Representing:

This file may be shown to any legislator: NO

Drafter: mdsida

May Contact:

Alt. Drafters:

Subject: Correctional System - misc
Correctional System - prisons
Criminal Law - miscellaneous
Legislature - miscellaneous
State Government - state bldg pr
Criminal Law - sentencing

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

SA 5 to SB 277

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	mdsida 11/10/1999	chanaman 11/10/1999	mclark 11/10/1999	_____	lrb_docadmin 11/10/1999	lrb_docadmin 11/10/1999	

FE Sent For:

<END>

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/1	mdsida	amlt /i 11/10	MRE 11/10	MRC/KJF 11/10			
FE Sent For:		11/10					

<END>

LRB

SCC DATE 11-9-99

LRB FAX F 36

SENATE FLOOR AMENDMENT

SENATE AMENDMENT 5

to _____ amendment _____

to _____ sub. amdt. _____

TO Senate BILL 277

Offered by Senator(s) Erpenbach

At the locations indicated, amend the Bill as follows:

1. Page 8, line 19:

after that line insert:

(See Attached)

P/c to Julie - Rep Erpenbach

Amdt. is identical to S.B 178

Section 1. 134.73 of the statutes is created to read:

134.73 Identification of prisoner making telephone solicitation. (1)

Definitions. In this section:

(a) "Contribution" has the meaning given in s. 440.41 (5).

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

(c) "Solicit" has the meaning given in s. 440.41 (8).

(d) "Telephone solicitation" means the unsolicited initiation of a telephone conversation for any of the following purposes:

1. To encourage a person to purchase property, goods or services.

2. To solicit a contribution from a person.

3. To conduct an opinion poll or survey.

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

(a) Identify himself or herself by name.

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

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

(3) Territorial application. (a) Intrastate. This section applies to any intrastate telephone solicitation.

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

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

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

Section 2. 134.95 (2) of the statutes is amended to read:

134.95 (2) Supplemental forfeiture. If a fine or a forfeiture is imposed on a person for a violation under s. 100.171, 100.173, 100.174, 100.175, 100.177, 134.71, 134.72, 134.73 or 134.87 or ch. 136 or a rule promulgated under these sections or that chapter, the person shall be subject to a supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the defendant, for which the fine or forfeiture was imposed, was perpetrated against an elderly person or disabled person and if any of the factors under s. 100.264 (2) (a), (b) or (c) is present.

Section 3. 196.208 (5p) of the statutes is created to read:

196.208 (5p) Toll-free calls answered by prisoners. (a) In this subsection:

1. "Charitable organization" has the meaning given in s. 440.41 (1).

2. "Prisoner" has the meaning given in s. 134.73 (1) (b).

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

1. Identify himself or herself by name.

2. State that he or she is a prisoner.

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

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

Section 4. 196.208 (10) (a) of the statutes is amended to read:

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

Section 5. 196.208 (11) (d) of the statutes is renumbered 196.208 (11) (d) 1. and amended to read:

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

each offense.

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

Section 6. 196.208 (11) (d) 2. of the statutes is created to read:

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

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

Section 7. 302.091 of the statutes is created to read:

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

Section 8. Initial applicability.

(1) Contracts for data entry or telemarketing services. The treatment of section 302.091 of the statutes first applies to contracts entered into or renewed by the department of corrections on the effective date of this subsection.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBf36/1
MGD:.....
CMT

NOT ADOPTED

SENATE AMENDMENT
TO 1999 SENATE BILL 277

stet.
A

Wed.
Noon

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;"

Nsent
1/6 →
7
1/7 →
8
1/8 →
9

- 6 2. Page 8, line 19: after that line insert:
- 7 3. Page 10, line 22: after that line insert:
- 8 4. Page 15, line 25: before that line insert:

(END)



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-2067/2
JEO:cmh:km

10 Sents

1999 SENATE BILL 178

May 27, 1999 - Introduced by Senators ERPENBACH, PLACHE, DECKER, MOEN, BRESKE, CLAUSING, BAUMGART and ROBSON, cosponsored by Representatives SCHNEIDER, BOCK, PLALE, PLOUFF, BLACK, SCHOFF, LASSA, ZIEGELBAUER, HAHN, MUSSER, BERCEAU, HASENOHRL, WASSERMAN, NASS and RYBA. Referred to Committee on Insurance, Tourism, Transportation and Corrections.

1 **AN ACT to renumber and amend 196.208 (11) (d); to amend 134.95 (2) and**
2 **196.208 (10) (a); and to create 134.73, 196.208 (5p), 196.208 (11) (d) 2. and**
3 **302.091 of the statutes, relating to:** contract authority of the department of
4 **corrections, prisoner access to personal information of persons who are not**
5 **prisoners, requiring prisoners conducting telephone solicitations or answering**
6 **toll-free telephone numbers to identify themselves as prisoners and providing**
7 **a penalty.**

Analysis by the Legislative Reference Bureau

This bill provides that the department of corrections may not enter into any contract or other agreement if, in the performance of the contract or agreement, a prisoner would perform data entry or telemarketing services and would have access to any personal identifying information of a person who is not a prisoner. Under the bill, personal identifying information includes such things as an individual's name, address, telephone number, driver's license number and social security number and the numbers of certain types of bank accounts.

This bill also creates disclosure requirements for prisoners who make telephone solicitations or answer toll-free telephone numbers. Specifically, the bill does the following:

1. Requires a prisoner who is making a telephone solicitation to do all of the following immediately after a person answers the telephone: a) state his or her

SENATE BILL 178

name; b) state that he or she is a prisoner; and c) inform the person answering the call of the name and location of the correctional facility in which he or she is a prisoner. These requirements apply to solicitations to sell goods or services, to solicit charitable contributions or to conduct opinion polls or surveys. In addition, the requirements apply to prisoners located in a facility outside of this state if they make telephone solicitations to persons in this state.

2. Requires a prisoner who is answering a toll-free telephone number to do all of the following immediately after answering a call to the number: a) state his or her name; b) state that he or she is a prisoner; and c) inform the caller of the name and location of the correctional facility in which he or she is a prisoner. These requirements apply to toll-free numbers used to sell goods or services or to solicit charitable contributions. In addition, the requirements apply to prisoners located in a facility outside of this state if the prisoner is answering toll-free calls made by persons in this state.

A prisoner who violates the bill's disclosure requirements is subject to a forfeiture (a civil monetary penalty) of not more than \$500, while an employer of a prisoner who is a party to a prisoner's violation of the requirements is subject to a forfeiture of not more than \$10,000. An employer may be a party to a prisoner's violation of the requirements by aiding and abetting the violation, conspiring with a prisoner to commit the violation or by advising, hiring, counseling or otherwise procuring a prisoner to violate the requirements.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

① ⁱⁿ SECTION 134.73 of the statutes is created to read:

134.73 Identification of prisoner making telephone solicitation. (1)

DEFINITIONS. In this section:

(a) "Contribution" has the meaning given in s. 440.41 (5).

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

(c) "Solicit" has the meaning given in s. 440.41 (8).

(d) "Telephone solicitation" means the unsolicited initiation of a telephone conversation for any of the following purposes:

1. To encourage a person to purchase property, goods or services.

↓
insert
1/6

SENATE BILL 178

1 2. To solicit a contribution from a person.

2 3. To conduct an opinion poll or survey.

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

5 (a) Identify himself or herself by name.

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

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

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

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

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

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

18 ^{to}
SECTION 134.95 (2) of the statutes is amended to read:

19 **134.95 (2) SUPPLEMENTAL FORFEITURE.** If a fine or a forfeiture is imposed on a
20 person for a violation under s. 100.171, 100.173, 100.174, 100.175, 100.177, 134.71,
21 134.72, 134.73 or 134.87 or ch. 136 or a rule promulgated under these sections or that
22 chapter, the person shall be subject to a supplemental forfeiture not to exceed
23 \$10,000 for that violation if the conduct by the defendant, for which the fine or
24 forfeiture was imposed, was perpetrated against an elderly person or disabled person
25 and if any of the factors under s. 100.264 (2) (a), (b) or (c) is present.

SENATE BILL 178

⑥ 793

1 SECTION 196.208 (5p) of the statutes is created to read:

2 196.208 (5p) TOLL-FREE CALLS ANSWERED BY PRISONERS. (a) In this subsection:

3 1. "Charitable organization" has the meaning given in s. 440.41 (1).

4 2. "Prisoner" has the meaning given in s. 134.73 (1) (b).

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

9 1. Identify himself or herself by name.

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

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

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

⑥ 794

16 SECTION 196.208 (10) (a) of the statutes is amended to read:

17 196.208 (10) (a) Subsections (2) to (5) apply to any pay-per-call service that
18 a caller may access by a call originating in this state and ~~sub. (5p) and (5t)~~
19 applies apply to any charitable organization, toll-free service vendor or employe of
20 a charitable organization or toll-free service vendor that a caller may access by a call
21 originating in this state.

⑥ 795

22 SECTION 196.208 (11) (d) of the statutes is renumbered 196.208 (11) (d) 1. and
23 amended to read:

SENATE BILL 178

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

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

7 **SECTION** ⁷⁹⁹ 196.208 (11) (d) 2. of the statutes is created to read:

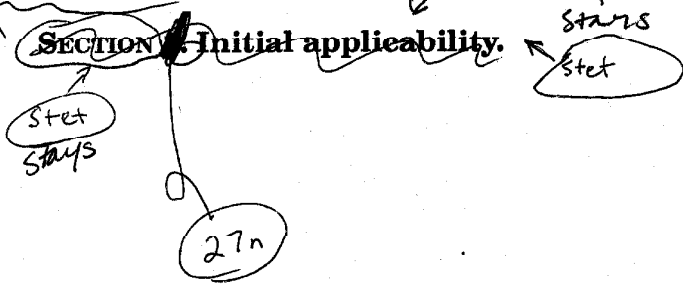
8 196.208 (11) (d) 2. a. A prisoner who violates sub. (5p) (b) may be required to
9 forfeit not more than \$500.

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

15 " **SECTION** ¹²¹ 302.091 of the statutes is created to read:

16 **302.091 Contracts requiring prisoners to perform data entry or**
17 **telemarketing services.** The department may not enter into any contract or other
18 agreement if, in the performance of the contract or agreement, a prisoner would
19 perform data entry or telemarketing services and have access to any personal
20 identifying information, as defined in s. 943.201 (1) (b), of an individual who is not
21 a prisoner. "

22 " **SECTION** ~~302.091~~ **Initial applicability.**



end insert
1/6

insert
1/7

insert
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SENATE BILL 178

SECTION 8

(4)

1

~~(3)~~ **CONTRACTS FOR DATA ENTRY OR TELEMARKETING SERVICES.** The treatment of

2

section 302.091 of the statutes first applies to contracts entered into or renewed by

3

the department of corrections on the effective date of this subsection. "

4

(END)