

2005 ASSEMBLY BILL 1014

1 **AN ACT** *to create* 100.525 of the statutes; **relating to:** obtaining, selling, or
2 soliciting a telephone record that pertains to another person without the
3 person’s consent and providing a penalty.

Analysis by the Legislative Reference Bureau

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

4 **SECTION 1.** 100.525 of the statutes is created to read:
5 **100.525 Telephone records; obtaining, selling, or receiving without**
6 **consent. (1)** In this section:
7 (a) “Caller identification record” means a record that is delivered electronically
8 to the recipient of a telephone call simultaneously with the reception of the telephone
9 call and that indicates the telephone number from which the telephone call was
10 initiated or similar information regarding the telephone call.

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1 (am) “Customer” means a person who purchases telephone service.

2 (b) “Telephone record” means a record in written, electronic, or oral form, except
3 a caller identification record, that is created by a telephone service provider and that
4 contains any of the following information with respect to a customer:

- 5 1. Telephone numbers that have been dialed by the customer.
- 6 2. Telephone numbers pertaining to calls made to the customer.
- 7 3. The time when calls were made by the customer or to the customer.
- 8 4. The duration of calls made by the customer or to the customer.

9 (c) “Telephone service” means the conveyance of 2-way voice communication
10 in analog, digital, or other form by any medium, including wire, cable, fiber optics,
11 cellular, broadband personal communications services, or other wireless
12 technologies, satellite, microwave, or at any frequency over any part of the
13 electromagnetic spectrum. “Telephone service” includes the conveyance of voice
14 communication over the Internet and telephone relay service.

15 (d) “Telephone service provider” means a person who provides telephone
16 service to a customer.

17 **(2)** No person may do any of the following:

18 (a) Obtain, or attempt to obtain, a telephone record that pertains to a customer
19 who is resident of this state, without the customer’s consent, by doing any of the
20 following:

- 21 1. Making a false statement to an agent of a telephone service provider.
- 22 2. Making a false statement to a customer of a telephone service provider.
- 23 3. Knowingly providing to a telephone service provider a document that is
24 fraudulent, that has been lost or stolen, or that has been obtained by fraud.

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1 (b) Ask another person to obtain a telephone record knowing that the person
2 will obtain the telephone record in a manner prohibited under this section.

3 (c) Sell or offer to sell a telephone record obtained in a manner prohibited under
4 this section.

5 **(3)** (a) A person who violates this section is guilty of a Class I felony if the
6 violation involves one telephone record.

7 (b) A person who violates this section is guilty of a Class G felony if the violation
8 involves 2 or more telephone records.

9 (c) A person who violates this section is guilty of a Class E felony if the violation
10 involves more than 10 telephone records.

11 **(4)** (a) In addition to the penalties authorized under sub. (3), a person who
12 violates this section may be required to forfeit personal property used or intended to
13 be used in the violation.

14 (b) In an action to enforce this section, the court shall award to a person who
15 is the subject of a telephone record involved in a violation of this section all of the
16 following:

17 1. The amount of the person's pecuniary loss suffered because of a violation of
18 this section, if proof of the loss is submitted to the satisfaction of the court, or \$1,000,
19 whichever is greater.

20 2. The amount of any gain to the violator as a result of the violation.

21 **(5)** This section does not apply to any of the following:

22 (a) Action by a law enforcement agency in connection with the official duties
23 of the law enforcement agency.

24 (b) A disclosure by a telephone service provider, if any of the following applies:

