

2005 Assembly Bill 1014

Date of enactment: **April 5, 2006**
Date of publication*: **April 19, 2006**

2005 WISCONSIN ACT 261

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

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

SECTION 1. 100.525 of the statutes is created to read:
100.525 Telephone records; obtaining, selling, or receiving without consent. (1) In this section:

(a) "Caller identification record" means a record that is delivered electronically to the recipient of a telephone call simultaneously with the reception of the telephone call and that indicates the telephone number from which the telephone call was initiated or similar information regarding the telephone call.

(am) "Customer" means a person who purchases telephone service.

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

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

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

(d) "Telephone service provider" means a person who provides telephone service to a customer.

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

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

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

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

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

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

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

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

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

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

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

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

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

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

1. The telephone service provider reasonably believes the disclosure is necessary to do any of the following:

a. Provide telephone service to a customer.

b. Protect an individual from fraudulent, abusive, or unlawful use of telephone service or a telephone record.

2. The disclosure is made to the National Center for Missing and Exploited Children.

3. The disclosure is authorized by state or federal law or regulation.

(6) A violation of this section may also constitute an unfair method of competition or unfair trade practice under s. 100.20 or a fraudulent representation under s. 100.18.
