



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, SCHOOFF, 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

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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 **SECTION 1.** 134.73 of the statutes is created to read:

2 **134.73 Identification of prisoner making telephone solicitation. (1)**

3 DEFINITIONS. In this section:

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

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

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

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

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

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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 **SECTION 2.** 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**SECTION 3**

1 **SECTION 3.** 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).

16 **SECTION 4.** 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. subs. (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.

22 **SECTION 5.** 196.208 (11) (d) of the statutes is renumbered 196.208 (11) (d) 1. and
23 amended to read:

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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 6.** 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 7.** 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 8. Initial applicability.**

