

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5088-01  
Bill No.: HB 1329  
Subject: Consumer Protection; Business and Commerce; Merchandising Practices  
Type: Original  
Date: February 5, 2014

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Bill Summary: This proposal specifies that personally identifiable information of consumers, including purchasing history, cannot be disseminated to certain parties without written consent of the individual.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(\$70,416)	(\$75,097)	(\$76,028)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$70,416)</b>	<b>(\$75,097)</b>	<b>(\$76,028)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
General Revenue	1	1	1
<b>Total Estimated Net Effect on FTE</b>	<b>1</b>	<b>1</b>	<b>1</b>

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Attorney General's Office (AGO)** assume the proposal would add new violations of chapter 407, which the AGO is charged with enforcing, as well as a new misdemeanor offense. As the proposal is broad and far reaching, the AGO assumes it would lead to a significant increase in caseload for our Consumer Protection Division. At a minimum, the AGO will require .5 FTE Investigator and .5 FTE AAG I to adequately enforce the provisions of the proposal. The AGO will seek additional appropriation for this purpose, and may seek further appropriations beyond these if the increase in workload so requires. The AGO assumes an annual cost of approximately \$75,000 for this additional FTE.

For the purpose of this proposed legislation, and as a result of excessive caseloads, the **Office of State Public Defender (SPD)** cannot assume existing staff will provide competent, effective representation for any new cases where indigent persons are charged with the proposed new crime of disseminating personally identifiable information of consumers without written consent of the individual, a new Class A Misdemeanor. The SPD is currently providing legal representation in caseloads in excess of recognized standards.

While the number of new cases may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all cases where the right to counsel attaches.

Officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts. If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs through supervision provided by the Board of Probation and Parole (FY 2013 average \$5.07 per offender, per day or an annual cost of \$1,851).

In summary, supervision by the DOC through probation would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials from the **Office of Prosecution Services** and the **Office of the State Courts Administrator** each assume the current proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
<b>GENERAL REVENUE FUND</b>			
<u>Cost - AGO</u>			
Personal Service	(\$34,479)	(\$41,789)	(\$42,207)
Fringe Benefits	(\$17,586)	(\$21,314)	(\$21,528)
Equipment and Expenses	<u>(\$18,351)</u>	<u>(\$11,994)</u>	<u>(\$12,293)</u>
<u>Total Costs - AGO</u>	<u>(\$70,416)</u>	<u>(\$75,097)</u>	<u>(\$76,028)</u>
FTE Change - AGO	1 FTE	1 FTE	1 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b><u>(\$70,416)</u></b>	<b><u>(\$75,097)</u></b>	<b><u>(\$76,028)</u></b>
Estimated Net FTE Change on General Revenue Fund	1 FTE	1 FTE	1 FTE
<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill specifies that personally identifiable information of consumers, including purchasing history, cannot be disclosed, provided or otherwise made available to a data broker without written consent of the individual. Personally identifiable information is defined as any information that identifies, relates to, describes, or is capable of being associated with a consumer, including any persistent identifier, driver's license number, social security number, other unique identification number, financial account number or information, credit or debit card number, first or last name, initials, or combination, insurance policy number, mailing or email address, and physical characteristics or description. Any individual whose privacy is breached will have cause of action against the person or entity which disclosed the information and the data broker that received the information. Damages include the greater of actual damages or statutory damages of \$1,000 per plaintiff and costs of maintaining the action including reasonable attorneys' fees. Violation of this section is a class A misdemeanor.

FISCAL DESCRIPTION (continued)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections  
Office of the State Public Defender  
Office of Prosecution Services  
Office of the State Courts Administrator  
Attorney General's Office

Mickey Wilson, CPA  
Director  
February 5, 2014



Ross Strope  
Assistant Director  
February 5, 2014