

The House Committee on Judiciary Non-civil offers the following substitute to SB 456:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated,
2 relating to invasions of privacy, so as to define a certain term; to provide that it shall be
3 unlawful to disseminate telephone records of mobile telephone usage without the express
4 consent of the subscriber; to provide that it shall be unlawful for an officer, employee, agent,
5 or other person affiliated with a mobile telephone service provider to disseminate telephone
6 records; to provide exceptions for such dissemination; to provide that it shall be unlawful to
7 buy or otherwise obtain telephone records; to provide for penalties; to provide an exception;
8 to provide an effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 3 of Chapter 11 of Title 16 of the Official Code of Georgia Annotated, relating to
12 invasions of privacy, is amended by inserting at the end thereof a new Code section to read
13 as follows:

14 "16-11-70.

15 (a) As used in this Code section, the term 'telephone record' means information retained
16 by a provider of mobile telephone service that relates to the telephone number dialed by
17 the subscriber of such mobile telephone service, the incoming number of calls directed to
18 the subscriber, or other data related to the calls typically contained on a subscriber's
19 telephone bill, including without limitation the time the call started and ended, the duration
20 of the call, the time of day the call was made, and any charges applied; provided, however,
21 that information collected and retained by, or on behalf of, a subscriber utilizing caller
22 identification or other similar technology shall not constitute a telephone record.

23 (b) It shall be unlawful for any person other than a provider of mobile telephone service
24 or its officers, employees, affiliates, agents, independent contractors, or representatives to
25 sell or otherwise disseminate to any person, including without limitation a person

1 purporting to be the mobile telephone service subscriber, a telephone record of the
2 subscriber without the express written consent of the mobile telephone service subscriber.

3 (c) It shall be unlawful for any officer, employee, affiliate, agent, independent contractor,
4 representative, or any other person affiliated with a mobile telephone service provider to
5 sell or otherwise disseminate to any person other than an affiliate, agent, representative,
6 vendor, supplier, or subcontractor of the mobile telephone service provider a subscriber's
7 telephone record without the express written consent of the mobile telephone service
8 subscriber; provided, however, that such information may be provided to such subscriber
9 in the normal course of business.

10 (d) It shall be unlawful for any person other than the mobile telephone service subscriber
11 to purchase or otherwise obtain from any person a telephone record of that subscriber.

12 (e) Violation of subsection (b), (c), or (d) of this Code section shall constitute a felony
13 punishable by imprisonment for a period not to exceed ten years or a fine not to exceed
14 \$100,000.00 or both. Each violation of this Code section shall constitute a separate
15 offense.

16 (f) The provisions of this Code section shall not apply to telephone records disclosed to:

17 (1) A law enforcement agency in connection with the performance of the official duties
18 of that agency pursuant to a subpoena or a search warrant;

19 (2) A mobile telephone service provider or an officer, employee, affiliate, agent,
20 independent contractor, or representative of a mobile telephone service provider, in the
21 course of:

22 (A) Testing the security procedures or systems of the mobile telephone service
23 provider that maintain the confidentiality of customer information; or

24 (B) Investigating an allegation of misconduct or negligence on the part of an officer,
25 employee, affiliate, agent, independent contractor, or representative of the mobile
26 telephone service provider; or

27 (3) A court or party to a legal proceeding pursuant to a court order, subpoena, notice to
28 produce, or discovery in that proceeding."

29 SECTION 2.

30 This Act shall become effective upon its approval by the Governor or upon its becoming law
31 without such approval.

32 SECTION 3.

33 All laws and parts of laws in conflict with this Act are repealed.