

SUBJECT: Increased minimum damages for illegally intercepting telecommunications

COMMITTEE: Civil Practices — committee substitute recommended

VOTE: 7 ayes — Bosse, Clark, Dutton, Hope, Martinez Fischer, Nixon, Smithee

0 nays

2 absent — Janek, Zbranek

WITNESSES: For — Brenda Flynn Flores, [www.HouSnitch.com](http://www.HouSnitch.com); Barry Klein

Against — None

BACKGROUND: Civil Practices and Remedies Code, ch. 123 establishes a cause of action against those who intercept or attempt to intercept wire or cable communications without the consent of one of the parties to the communication. It also establishes a cause of action against someone who knowingly uses or divulges such intercepted communications.

To compensate parties to intercepted communications for the invasion of privacy involved, Civil Practices and Remedies Code, sec. 123.004 provides that a party to the communication automatically can recover \$1,000 in statutory damages, plus any damages over \$1,000 necessary to compensate the communicator for actual harm that is suffered due to the interception, attempted interception, use, or divulgence of the communication.

DIGEST: CSHB 1823 would increase to \$10,000 the statutory damages that a party could recover due to an intercepted communication or communication that someone attempted to intercept.

The bill would take effect September 1, 2001, and would apply both to lawsuits filed on or after the effective date and to suits pending on the effective date in which a judgment had not been entered.

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NOTES: The original bill provided a range of statutory damages from \$5,000 to \$10,000.