

Senator Alex Padilla

Fact Sheet



SB 1160 – PADILLA (as amended April 9, 2012) Communications Service Interruption

Summary

SB 1160 would update and make technology-neutral current state law specifying the extremely limited circumstances when communications service can be intentionally interrupted, thereby protecting the public's access to 911 emergency services and use of the telecommunications network to engage in any lawful communication. This bill would maintain the statewide standard allowing service interruption only as directed by a court order based on probable cause and would preempt conflicting local policies.

Background

In years past, landline telephone service was the only widely available means of connecting to the public telephone network and calling 911 in an emergency. Now, growing numbers of people use other technologies such as mobile wireless and Voice over Internet Protocol (VoIP) services as their primary means of communication for voice calls, texting, email, Internet access, and other uses, including contacting 911 for emergency assistance.

In December 2011, the board of directors of the Bay Area Rapid Transit (BART) district adopted

the nation's first policy specifying when cellular telecommunications service (i.e., mobile wireless) can be shut down. This followed BART's shutdown of wireless service for three hours in August 2011 in an attempt to stop text communication by individuals organizing a rally related to an issue of great public interest. The new policy allows BART to interrupt cell service if BART officials determine there is strong evidence of imminent unlawful activity that threatens public safety, substantial disruption of public transit services, or destruction of BART property, among other considerations. The policy does not require any court or other review of BART officials' determination that a shutdown is justified.

At the time BART adopted its policy, the Federal Communications Commission (FCC) stated that open and available communications networks are critical to democracy, the economy, and public safety and announced that it would open a public proceeding to examine the legal and policy constraints on service interruption posed by the First Amendment, the Communications Act, and other provisions of federal and state law. On March 1, the FCC issued a [Public Notice](#) asking for public comment on these issues.

Existing Law

Section 7904 of the Public Utilities Code, recodified in 1951 with language dating to 1905, makes it a misdemeanor for any telephone or telegraph agent to not transmit a message unless the message encourages treason or other unlawful acts.

Section 7907 of the Public Utilities Code, enacted in 1977 in response to a hostage situation, allows law enforcement to order a cut to a telephone line to prevent communication when there is probable cause a person is holding hostages, committing a crime, or resisting arrest through use of force.

In 1979, the California Supreme Court held that a rule of the California Public Utilities Commission (CPUC) governing interruption of landline telephone service on the basis of its use for an illegal purpose is unconstitutional unless the rule requires a court order with a finding of probable cause that lines are being used in illegal acts and that, absent immediate interruption, would result in significant dangers to public health, safety, and welfare (*Goldin v. PUC*, 23 Cal.3d 638).

This Bill

This bill updates current state law specifying when communications service can be intentionally interrupted and does the following:

- Makes current law technology-neutral to apply to any communications service that interconnects with the public switched telecommunications network and is required by the FCC to provide users 911 access to emergency services.
- Maintains the statewide standard allowing service interruption only as directed by a court order with a finding of probable cause that service is being used for an illegal purpose.
- Requires a court finding that, absent immediate interruption of service,

significant dangers to public health, safety or welfare will result.

- Requires a court finding that service interruption will not suppress constitutionally protected speech.
- Preempts conflicting local policies allowing service interruption based on a lesser standard.
- Applies only to service interruption by a governmental entity or by a provider at the request of a governmental entity for the purpose of protecting public safety or preventing illegal acts and does not affect current law and regulations authorizing service disconnect for nonpayment or other specified purposes.

Support

American Civil Liberties Union Northern California
California Chapter of National Emergency Number Association
The Utility Reform Network

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