Date of Hearing: August 5, 2026

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Buffy Wicks, Chair
SB 690 (Caballero) – As Amended July 2, 2026

Policy Committee:	Public Safety	Vote:	9 - 0
	Privacy and Consumer Protection		14 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill eliminates the private right of action under the California Invasion of Privacy Act (CIPA) for violations of the pen register and trap and trace statute arising from conduct occurring on an internet website, online application, or mobile application, and instead authorizes only the Attorney General (AG) to bring such actions against private actors.

FISCAL EFFECT:

1) Costs of up to approximately $1.5 million (General Fund) to the Department of Justice (DOJ), reflecting six positions and $150,000 in external expert costs beginning January 1, 2027. Within the Public Rights Division, the Consumer Protection Section would add two deputy attorneys general, two legal secretaries, and one senior legal analyst, along with the external expert costs, to investigate and enforce violations for which this bill makes the AG the exclusive enforcement authority. The Public Inquiry Unit within the Directorate Division would add one analyst to intake, process, and route related complaints and inquiries. DOJ reports the department could not absorb these costs within existing budgeted resources. Notably, the bill authorizes the AG to bring these actions but requires no enforcement activity of any kind. The volume and pace of enforcement, and therefore the resources needed to support enforcement, would remain within the AG's discretion.

2) Potential reduction in trial court workload and associated cost pressures (Trial Court Trust Fund (TCTF)) of an unknown, but potentially significant amount. According to the bill's sponsor, approximately 4,000 lawsuits alleging CIPA violations have been filed against California businesses, the bulk of which assert pen register claims based on website tracking software. By eliminating the private right of action for these claims and applying that change retroactively to pending claims commenced within two years before the bill's operative date, this bill would remove a substantial volume of pending and future civil litigation from the trial courts. Although courts are not funded on the basis of workload, reduced pressure on the TCTF may reduce demand for increased General Fund support of the courts.

COMMENTS:

1) **Purpose**. According to the author:

> SB 690 will stop abusive shake down lawsuits for standard online business activities against California businesses and nonprofits filed under Section 638.51 of the California Invasion of Privacy Act (CIPA)

> enacted in 1967, long before the internet was even developed. In recent years, a small number of law firms have filed vexatious lawsuits inappropriately using CIPA's pen-register provision to prey on small business owners and non-profits who cannot afford the costs of litigation, but could afford to settle for a couple thousand dollars.

2) **Background**. The California Invasion of Privacy Act (CIPA), enacted in 1967, criminalizes unauthorized wiretapping, eavesdropping, and recording of communications. Penal Code section 637.2 provides a private right of action for any person injured by a violation, with statutory damages of $5,000 per violation, treble actual damages, and injunctive relief, without requiring proof of actual harm.

   The Pen Register Statute. A pen register was historically a device law enforcement attached to a telephone line to record the numbers a person dialed (information about a call, rather than the call's *contents*) and the law requires a court order before one may be installed. In 2015, the Legislature added CIPA's pen register and trap and trace statute (Penal Code section 638.51) through AB 929 (Chau), Chapter 204, Statutes of 2015, defining a pen register broadly as any "device or process" that records "dialing, routing, addressing, or signaling information" transmitted from a communication. The legislative history of AB 929 focused on law enforcement procedures and did not address online technologies.

   The Litigation Theory. When a person visits a website, the person's browser transmits identifying information, including an IP address, as an inherent part of loading the page. Most websites also embed third-party software, such as analytics tools, advertising trackers, and pixels, that captures this information and transmits the information to third-party companies for advertising and analytics, generally without the visitor's knowledge. Beginning around 2023, plaintiffs' attorneys began arguing this arrangement violates the pen register statute: a website visit is an electronic communication, an IP address is "addressing" information, and tracking software is a "process" that "records" that information without a court order. Because $5,000 in statutory damages accrues per violation — arguably per page visit — potential exposure is enormous, and settlement demands have ranged from $20,000 to as high as $5 billion. According to the bill's sponsor, approximately 4,000 lawsuits have been filed as of mid-2026, plus tens of thousands of demand letters, largely by a small number of law firms using repeat plaintiffs who visit websites solely to generate claims. Defendants, including small businesses, nonprofits, healthcare providers, and public agencies, generally settle rather than bear litigation costs. Courts are divided: federal district courts have largely allowed these claims to proceed on the statute's broad text, while state trial courts have mostly dismissed them as inconsistent with the statute's telephone-surveillance origins. No published California appellate decision resolves the question.

   The Senate Version and the Privacy Committee Compromise. As passed by the Senate, this bill exempted any "commercial business purpose," as defined in the California Consumer Privacy Act, from all civil and criminal liability under CIPA, including the longstanding wiretapping (Penal Code section 631) and confidential communications (Penal Code section 632) statutes. The Assembly Privacy and Consumer Protection Committee concluded that approach swept too broadly: section 631 has applied to online communications for decades, requires interception of the contents of communications, an element that both limits abusive filings and captures genuinely offensive conduct, such as surreptitious harvesting of patients' medical portal data, and a blanket commercial exemption risked shielding serious privacy violations to address a problem driven overwhelmingly by the pen register statute. The author accordingly agreed to amendments narrowing the bill to the pen register statute only, changing only who may enforce website-related violations civilly: private plaintiffs may no longer sue, and the Attorney General holds exclusive enforcement authority. Removing private standing removes the settlement-demand model driving the litigation while preserving a public enforcement path. The retroactivity provision terminates pending claims filed within two years before the operative date, and the severability clause anticipates potential constitutional challenges to that provision; the Department of Justice would defend the statute within existing litigation resources. Supporters of the bill continue to advocate for further amendments, arguing that two-thirds of existing lawsuits involve wiretapping claims under Section 631, which was removed from the bill's purview in Assembly Privacy. Supporters argue that high-volume litigants will shift—and already have shifted—their litigation strategy to focus solely on Section 631, and the current version of the bill will not solve the abusive litigation.

3) **Opposition**. This bill is sponsored by the Alliance for Legal Fairness and supported by a broad coalition of businesses, chambers of commerce, and trade associations, who argue vexatious pen register litigation has imposed severe costs on organizations of every size for routine website operations. This bill is opposed by a coalition of privacy, consumer, labor, civil liberties, and immigrant rights organizations, who argue eliminating private enforcement removes the primary practical remedy for surreptitious third-party tracking and leaves enforcement to an AG's office that has not historically pursued online CIPA violations.

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