

HOUSE BILL No. 6101

May 8, 2008, Introduced by Reps. Corriveau, Palmer, Vagnozzi, Bieda, Ebli, Condino, Valentine, LeBlanc, Melton, Simpson, Polidori, Leland, Constan, Robert Jones, Griffin, Johnson, Hammon, Miller, Byrnes, McDowell, Lindberg, Cushingberry, Dean, Meadows, Accavitti, Gillard, Lahti, Hammel and Clack and referred to the Committee on Judiciary.

A bill to amend 2004 PA 452, entitled
"Identity theft protection act,"
by amending section 5 (MCL 445.65), as amended by 2006 PA 246.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) A person shall not do any of the following:

2 (a) With intent to defraud or violate the law, use or attempt
3 to use the personal identifying information of another person to do
4 either of the following:

5 (i) Obtain credit, goods, services, money, property, a vital
6 record, a confidential telephone record, medical records or
7 information, or employment.

8 (ii) ~~Commit another unlawful act~~ **ENGAGE IN CRIMINAL ACTIVITY OR**
9 **ANY OTHER VIOLATION OF LAW.**

1 (iii) MISLEAD A LAW ENFORCEMENT AGENCY OR COURT CONCERNING THE
2 IDENTITY OF AN INDIVIDUAL UNDER CRIMINAL INVESTIGATION OR A
3 CRIMINAL DEFENDANT.

4 (b) By concealing, withholding, or misrepresenting the
5 person's identity, use or attempt to use the personal identifying
6 information of another person to do either of the following:

7 (i) Obtain credit, goods, services, money, property, a vital
8 record, a confidential telephone record, medical records or
9 information, or employment.

10 (ii) Commit another unlawful act.

11 (2) A person who violates subsection (1)(b)(i) may assert 1 or
12 more of the following as a defense in a civil action or as an
13 affirmative defense in a criminal prosecution, and has the burden
14 of proof on that defense by a preponderance of the evidence:

15 (a) That the person gave a bona fide gift for or for the
16 benefit or control of, or use or consumption by, the person whose
17 personal identifying information was used.

18 (b) That the person acted in otherwise lawful pursuit or
19 enforcement of a person's legal rights, including an investigation
20 of a crime or an audit, collection, investigation, or transfer of a
21 debt, child or spousal support obligation, tax liability, claim,
22 receivable, account, or interest in a receivable or account.

23 (c) That the action taken was authorized or required by state
24 or federal law, rule, regulation, or court order or rule.

25 (d) That the person acted with the consent of the person whose
26 personal identifying information was used, unless the person giving
27 consent knows that the information will be used to commit an

1 unlawful act.

2 Enacting section 1. This amendatory act does not take effect
3 unless all of the following bills of the 94th Legislature are
4 enacted into law:

5 (a) Senate Bill No.____ or House Bill No. 6099(request no.
6 05635'07).

7 (b) Senate Bill No.____ or House Bill No. 6100(request no.
8 05636'07).

9 (c) Senate Bill No.____ or House Bill No. 6102(request no.
10 05638'07).

11 (d) Senate Bill No.____ or House Bill No. 6103(request no.
12 05639'07).

13 (e) Senate Bill No.____ or House Bill No. 6104(request no.
14 05979'07).

15 (f) Senate Bill No.____ or House Bill No. 6105(request no.
16 05980'07).

17 (g) Senate Bill No.____ or House Bill No. 6106(request no.
18 05981'07).

19 (h) Senate Bill No.____ or House Bill No. 6107(request no.
20 05982'07).