

HOUSE BILL No. 4731

March 31, 2009, Introduced by Reps. Corriveau, Sheltroun, Leland, Melton, Durhal, Lori, Meadows and Dean 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~~ **OBTAIN** credit, goods, services, money, property, a
6 vital record, a confidential telephone record, medical records or
7 information, or employment.

8 — ~~(ii) Commit another unlawful act.~~

9 **(B) USE OR ATTEMPT TO USE PERSONAL IDENTIFYING INFORMATION**

1 THAT IS NOT HIS OR HER PERSONAL IDENTIFYING INFORMATION TO DO ANY
2 OF THE FOLLOWING:

3 (i) ENGAGE IN CRIMINAL ACTIVITY OR ANY OTHER VIOLATION OF LAW.

4 (ii) MISLEAD A LAW ENFORCEMENT AGENCY OR COURT CONCERNING THE
5 IDENTITY OF AN INDIVIDUAL UNDER CRIMINAL INVESTIGATION OR THE
6 IDENTITY OF A CRIMINAL DEFENDANT.

7 (C) ~~(b)~~—By concealing, withholding, or misrepresenting the
8 person's identity, use or attempt to use the personal identifying
9 information of another person to do either of the following:

10 (i) Obtain credit, goods, services, money, property, a vital
11 record, a confidential telephone record, medical records or
12 information, or employment.

13 (ii) Commit another unlawful act.

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

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

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

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

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1 (d) That the person acted with the consent of the person whose
2 personal identifying information was used, unless the person giving
3 consent knows that the information will be used to commit an
4 unlawful act.

[Enacting section 1. This amendatory act takes effect January 1,
2010.]

5 Enacting section [2]. This amendatory act does not take effect
6 unless all of the following bills of the 95th Legislature are
7 enacted into law:

8 (a) Senate Bill No. _____ or House Bill No. 4730 (request no.
9 01597'09).

10 (b) Senate Bill No. _____ or House Bill No. 4732 (request no.
11 01599'09).

12 (c) Senate Bill No. _____ or House Bill No. 4733 (request no.
13 01600'09).

14 (d) Senate Bill No. _____ or House Bill No. 4729 (request no.
15 01601'09).

16 (e) Senate Bill No. _____ or House Bill No. 4734 (request no.
17 01602'09).