

HOUSE BILL NO. 5359

November 14, 2023, Introduced by Reps. Morgan and Skaggs and referred to the Committee on Judiciary.

A bill to amend 2004 PA 452, entitled "Identity theft protection act," by amending section 3 (MCL 445.63), as amended by 2010 PA 318.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

2 (a) "Agency" means a department, board, commission, office,
3 agency, authority, or other unit of state government of this state.
4 ~~The term~~ **Agency** includes an institution of higher education of this
5 state. ~~The term~~ **Agency** does not include a circuit, probate,
6 district, or municipal court.

1 (b) "Breach of the security of a database" or "security
2 breach" means the unauthorized access and acquisition of data that
3 compromises the security or confidentiality of personal information
4 maintained by a person or agency as part of a database of personal
5 information regarding multiple individuals. ~~These terms do~~ **Breach**
6 **of the security of a database or security breach does** not include
7 unauthorized access to data by an employee or other individual if
8 the access meets all of the following:

9 (i) The employee or other individual acted in good faith in
10 accessing the data.

11 (ii) The access was related to the activities of the agency or
12 person.

13 (iii) The employee or other individual did not misuse any
14 personal information or disclose any personal information to an
15 unauthorized person.

16 (c) "Child or spousal support" means support for a child or
17 spouse, paid or provided ~~pursuant to~~ **in accordance with** state or
18 federal law under a court order or judgment. Support includes, but
19 is not limited to, any of the following:

20 (i) Expenses for day-to-day care.

21 (ii) Medical, dental, or other health care.

22 (iii) Child care expenses.

23 (iv) Educational expenses.

24 (v) Expenses in connection with pregnancy or confinement under
25 the paternity act, 1956 PA 205, MCL 722.711 to 722.730.

26 (vi) Repayment of genetic testing expenses, under the paternity
27 act, 1956 PA 205, MCL 722.711 to 722.730.

28 (vii) A surcharge as provided by section 3a of the support and
29 parenting time enforcement act, 1982 PA 295, MCL 552.603a.

1 (d) "Credit card" means that term as defined in section 157m
2 of the Michigan penal code, 1931 PA 328, MCL 750.157m.

3 (e) "Data" means computerized personal information.

4 (f) "Depository institution" means a state or nationally
5 chartered bank or a state or federally chartered savings and loan
6 association, savings bank, or credit union.

7 (g) "Encrypted" means transformation of data through the use
8 of an algorithmic process into a form in which there is a low
9 probability of assigning meaning without use of a confidential
10 process or key, or securing information by another method that
11 renders the data elements unreadable or unusable.

12 (h) "False pretenses" includes, but is not limited to, a
13 false, misleading, or fraudulent representation, writing,
14 communication, statement, or message, communicated by any means to
15 another person, that the maker of the representation, writing,
16 communication, statement, or message knows or should have known is
17 false or fraudulent. The false pretense may be a representation
18 regarding a past or existing fact or circumstance or a
19 representation regarding the intention to perform a future event or
20 to have a future event performed.

21 (i) "Financial institution" means ~~a~~**any of the following:**

22 **(i)** A depository institution. ~~an~~

23 **(ii)** An affiliate of a depository institution. ~~a~~

24 **(iii)** A licensee under **any of the following:**

25 **(A)** The consumer financial services act, 1988 PA 161, MCL
26 487.2051 to 487.2072. ~~τ~~

27 **(B)** 1984 PA 379, MCL 493.101 to 493.114. ~~the~~

28 **(C)** The motor vehicle sales finance act, 1950 (Ex Sess) PA 27,
29 MCL 492.101 to ~~492.141, the~~ **492.137a.**

1 **(D) The** secondary mortgage loan act, 1981 PA 125, MCL 493.51
2 to 493.81. ~~the~~

3 **(E) The** mortgage brokers, lenders, and servicers licensing
4 act, 1987 PA 173, MCL 445.1651 to 445.1684. ~~or the~~

5 **(F) The** regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.
6 ~~a~~

7 **(iv) A** seller under **any of the following:**

8 **(A) The** home improvement finance act, 1965 PA 332, MCL
9 445.1101 to 445.1431. ~~or the~~

10 **(B) The** retail installment sales act, 1966 PA 224, MCL 445.851
11 to 445.873. ~~or a~~

12 **(v) A** person subject to subtitle A of title V of the Gramm-
13 Leach-Bliley act, 15 USC 6801 to 6809.

14 (j) "Financial transaction device" means that term as defined
15 in section 157m of the Michigan penal code, 1931 PA 328, MCL
16 750.157m.

17 (k) "Identity theft" means engaging in an act or conduct
18 prohibited in section 5(1).

19 (l) "Interactive computer service" means an information service
20 or system that enables computer access by multiple users to a
21 computer server, including, but not limited to, a service or system
22 that provides access to the internet or to software services
23 available on a server.

24 (m) "Law enforcement agency" means that term as defined in
25 section 2804 of the public health code, 1978 PA 368, MCL 333.2804.

26 (n) "Local registrar" means that term as defined in section
27 2804 of the public health code, 1978 PA 368, MCL 333.2804.

28 (o) "Medical records or information" includes, but is not
29 limited to, medical and mental health histories, reports,

1 summaries, diagnoses and prognoses, treatment and medication
2 information, notes, entries, and ~~x-rays~~ **X-rays** and other imaging
3 records.

4 (p) "Person" means an individual, partnership, corporation,
5 limited liability company, association, or other legal entity.

6 (q) "Personal identifying information" means a name, number,
7 or other information that is used for the purpose of identifying a
8 specific person or providing access to a person's financial
9 accounts, including, but not limited to, a person's name, address,
10 telephone number, driver license or state personal identification
11 card number, ~~social security~~ **Social Security** number, place of
12 employment, employee identification number, employer or taxpayer
13 identification number, government passport number, health insurance
14 identification number, mother's maiden name, demand deposit account
15 number, savings account number, financial transaction device
16 account number or the person's account password, any other account
17 password in combination with sufficient information to identify and
18 access the account, automated or electronic signature, biometrics,
19 stock or other security certificate or account number, credit card
20 number, vital record, or medical records or information.

21 (r) "Personal information" means the first name or first
22 initial and last name linked to 1 or more of the following data
23 elements of a resident of this state:

24 (i) Social ~~security~~ **Security** number.

25 (ii) Driver license number or state personal identification
26 card number.

27 (iii) Demand deposit or other financial account number, or
28 credit card or debit card number, in combination with any required
29 security code, access code, or password that would permit access to

1 any of the resident's financial accounts.

2 (s) "Public utility" means that term as defined in section 1
3 of 1972 PA 299, MCL 460.111.

4 (t) "Redact" means to alter or truncate data so that no more
5 than 4 sequential digits of a driver license number, state personal
6 identification card number, or account number, or no more than 5
7 sequential digits of a ~~social security~~ **Social Security** number, are
8 accessible as part of personal information.

9 (u) "State registrar" means that term as defined in section
10 2805 of the public health code, 1978 PA 368, MCL 333.2805.

11 (v) "Trade or commerce" means that term as defined in section
12 2 of the Michigan consumer protection act, ~~1971~~ **1976** PA 331, MCL
13 445.902.

14 (w) "Vital record" means that term as defined in section 2805
15 of the public health code, 1978 PA 368, MCL 333.2805.

16 (x) "Webpage" means a location that has a uniform resource
17 locator, or URL, with respect to the world wide web or another
18 location that can be accessed on the internet.

19 Enacting section 1. This amendatory act does not take effect
20 unless Senate Bill No. ____ or House Bill No. 5354 (request no.
21 03158'23) of the 102nd Legislature is enacted into law.