

IDENTITY THEFT PROTECTION ACT (EXCERPT)
Act 452 of 2004

445.69 Certain violations as felony; penalty; consecutive sentences; defense in civil action or criminal prosecution; burden of proof; exception.

Sec. 9.

(1) Subject to subsection (6), a person who violates section 5 or 7 is guilty of a felony punishable as follows:

(a) Except as otherwise provided in subdivisions (b) and (c), by imprisonment for not more than 5 years or a fine of not more than \$25,000.00, or both.

(b) If the violation is a second violation of section 5 or 7, by imprisonment for not more than 10 years or a fine of not more than \$50,000.00, or both.

(c) If the violation is a third or subsequent violation of section 5 or 7, by imprisonment for not more than 15 years or a fine of not more than \$75,000.00, or both.

(2) Sections 5 and 7 apply whether an individual who is a victim or intended victim of a violation of 1 of those sections is alive or deceased at the time of the violation.

(3) This section does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law committed by that person using information obtained in violation of this section or any other violation of law committed by that person while violating or attempting to violate this section.

(4) The court may order that a term of imprisonment imposed under this section be served consecutively to any term of imprisonment imposed for a conviction of any other violation of law committed by that person using the information obtained in violation of this section or any other violation of law committed by that person while violating or attempting to violate this section.

(5) A person may assert as a defense in a civil action or as an affirmative defense in a criminal prosecution for a violation of section 5 or 7, and has the burden of proof on that defense by a preponderance of the evidence, that the person lawfully transferred, obtained, or attempted to obtain personal identifying information of another person for the purpose of detecting, preventing, or deterring identity theft or another crime or the funding of a criminal activity.

(6) Subsection (1) does not apply to a violation of a statute or rule administered by a regulatory board, commission, or officer acting under authority of this state or the United States that confers primary jurisdiction on that regulatory board, commission, or officer to authorize, prohibit, or regulate the transactions and conduct of that person, including, but not limited to, a state or federal statute or rule governing a financial institution and the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, if the act is committed by a person subject to and regulated by that statute or rule, or by another person who has contracted with that person to use personal identifying information.

History: 2004, Act 452, Eff. Mar. 1, 2005 ;-- Am. 2010, Act 315, Eff. Apr. 1, 2011 ;-- Am. 2010, Act 318, Eff. Apr. 1, 2011