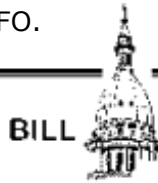




Senate Fiscal Agency
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**BILL ANALYSIS**

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House Bill 6177 (as passed by the House)
Sponsor: Representative Sal Rocca
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 11-8-04

CONTENT

The bill would amend the Michigan Penal Code to prohibit a person who was not a party to a transaction that involved the use of a financial transaction device from secretly or surreptitiously photographing, digitally capturing or recording, or electronically transmitting personal identifying information from the transaction, without the consent of the individual. A violation would be a misdemeanor punishable by up to one year's imprisonment, a maximum fine of \$1,000, or both.

The bill states that it would not prohibit the capture or transmission of personal identifying information in the ordinary and lawful course of business.

"Financial transaction device" would mean that term as defined in Section 157m of the Code. Under that section, the term includes an electronic funds transfer card; a credit card; a debit card; or a point-of-sale card. It also includes any instrument, device, card, plate, code, account number, personal identification number, or a record or a copy of a code, account number, or personal identification number or other means of access to a credit account or deposit account, or a driver's license or State identification card used to gain access to a proprietary account, other than access originated solely by a paper instrument, that can be used alone or in conjunction with another access device, for any of the following purposes:

- Obtaining money, cash refund or credit account, credit, goods, services, or any other thing of value.
- Certifying or guaranteeing to a person or business the availability to the device holder of funds on deposit to honor a draft or check payable to the order of that person or business.
- Providing the device holder access to a deposit account for the purpose of making deposits, withdrawing funds, transferring funds between deposit accounts, obtaining information pertaining to a deposit account, or making an electronic funds transfer.

"Personal identifying information" would mean that term as defined in the "Identity Theft Protection Act" (proposed by Senate Bill 792 and House Bill 6168), i.e., a name, number, or other information used for the purpose of identifying a specific person or providing access to a person's financial accounts.

The bill would take effect on March 1, 2005.

FISCAL IMPACT

The bill would have no fiscal impact on the State and an indeterminate fiscal impact on local government. There are no data to indicate how many people would be convicted of the proposed misdemeanor. Local units of government incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. Public libraries would benefit from any additional penal fine revenue raised.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.