

SENATE BILL No. 1462

November 3, 2004, Introduced by Senators HARDIMAN, BISHOP and JELINEK and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding section 2911a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2911a. (1) A financial institution or a law
2 enforcement agency is immune from civil liability for the
3 disclosure of personal identifying information to a financial
4 institution or a law enforcement agency if the disclosure was
5 only made for 1 or more of the following purposes:

6 (a) Preventing or deterring a financial or other crime,
7 identity theft, or the funding of criminal activity.

8 (b) Detecting, assisting in the prosecution of, or recovering
9 losses from a financial or other crime, identity theft, or the
10 funding of criminal activity.

11 (2) As used in this section:

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

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

6 (c) "Financial institution" means a depository institution or
7 an affiliate of a depository institution.

8 (d) "Financial transaction device" means that term as defined
9 in section 157m of the Michigan penal code, 1931 PA 328, MCL
10 750.157m.

11 (e) "Identity theft" means any unauthorized use of another
12 person's personal identifying information to do any of the
13 following:

14 (i) Obtain credit, goods, services, money, property, medical
15 records or information, or employment, except as provided in
16 subdivision (f).

17 (ii) Commit any other unlawful act.

18 (f) "Identity theft" does not include any of the following
19 acts if performed to obtain credit, goods, services, money,
20 property, medical records or information, or employment:

21 (i) An act that is a bona fide gift for or for the primary
22 benefit of and use, consumption, or control by the person whose
23 personal identifying information was used, except if the act is
24 performed with the intent to defraud or commit another unlawful
25 act.

26 (ii) An act in lawful pursuit or enforcement of a person's
27 legal rights, including an audit, collection, investigation, or

1 transfer of a debt, claim, crime, receivable, or account or an
2 interest in a receivable or account.

3 (iii) An act performed by a health care provider or employer
4 in connection with providing health care or employment benefits
5 to an individual.

6 (iv) An act authorized or required by state or federal law,
7 rule, regulation, or court order or rule.

8 (v) An act performed by a person who is subject to and
9 regulated by a statute administered by a regulatory board or
10 officer acting under authority of this state or the United States
11 that confers exclusive jurisdiction on that regulatory board or
12 officer to authorize, prohibit, or regulate the transactions and
13 conduct of that person, if the act does not violate state or
14 federal law. The statutes described in this subparagraph
15 include, but are not limited to, any state or federal statute
16 governing a financial institution and the insurance code of 1956,
17 1956 PA 218, MCL 500.100 to 500.8302.

18 (vi) An act performed by a person who has contracted with a
19 person described in subparagraph (ii), (iii), (iv), or (v) to use
20 any personal identifying information, if the person has privacy
21 protections in place similar to those of the person described in
22 that subparagraph that makes the personal identifying information
23 confidential.

24 (g) "Law enforcement agency" means that term as defined in
25 section 2804 of the public health code, 1978 PA 368, MCL
26 333.2804.

27 (h) "Medical records or information" includes, but is not

1 limited to, medical and mental health histories, reports,
2 summaries, diagnoses and prognoses, treatment and medication
3 information, notes, entries, and x-rays and other imaging
4 records.

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

8 (j) "Personal identifying information" means a name, number,
9 or other information that may be used to identify a specific
10 person or provide access to a person's financial accounts,
11 including, but not limited to, a person's name, address,
12 telephone number, driver license or state personal identification
13 card number, social security number, place of employment,
14 employee identification number, employer or taxpayer
15 identification number, government passport number, health
16 insurance identification number, mother's maiden name, demand
17 deposit account number, savings account number, financial
18 transaction device account number or the person's account
19 password, stock or other security certificate or account number,
20 credit card number, or medical records or information.

21 (k) "Unauthorized" means without the consent of the person
22 whose personal identifying information is being used, except if
23 the consent is knowingly given to commit an unlawful act.