

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1041

93RD GENERAL ASSEMBLY

Reported from the Committee on Pensions, Veterans' Affairs and General Laws, March 16, 2006, with recommendation that the Senate Committee Substitute do pass.

5118S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To amend chapter 570, RSMo, by adding thereto one new section relating to obtaining, receiving and selling personal health information, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 570, RSMo, is amended by adding thereto one new section, to be known as section 570.350, to read as follows:

570.350. 1. A person commits the crime of knowingly obtaining, receiving, or selling personal health information without consent if such person:

(1) Procures, attempts to procure, solicits, or conspires with another to procure the personal health information of any resident of this state knowing that such information has been obtained without the consent of the person to whom the personal health information pertains; or

(2) By fraudulent, deceptive, or false means:

(a) Sells, or attempts to sell, personal health information of any resident of this state without the consent of the person to whom the information pertains; or

(b) Receives personal health information of any resident of this state knowing that such information has been obtained without the consent of the person to whom the information pertains or by fraudulent, deceptive, or false means.

2. Obtaining, receiving, or selling a personal health information without consent is a felony punishable as follows:

(1) A fine of not less than five hundred dollars nor more than one

20 thousand dollars or imprisonment for not more than two years, or both
21 such fine and imprisonment, if the violation of subsection 1 of this
22 section involves a single personal health information of a resident of
23 this state;

24 (2) A fine of not less than one thousand dollars nor more than
25 five thousand dollars or imprisonment for not more than five years, or
26 both such fine and imprisonment, if the violation of subsection 1 of this
27 section involves two to ten personal health information of a resident of
28 this state;

29 (3) A fine of not less than five thousand dollars and not more
30 than ten thousand dollars or imprisonment for not more than ten years,
31 or both such fine and imprisonment, if the violation of subsection 2 of
32 this section involves more than ten personal health information of a
33 resident of this state.

34 3. No provision of this section shall be construed so as to prevent
35 any action by a law enforcement agency, or any officer, employee, or
36 agent of such agency, or any governmental agency, to obtain, use, or
37 disclose personal health information in connection with the
38 performance of the official duties of the agency, as allowed by state or
39 federal privacy laws.

40 4. No provision of this section shall be construed to prohibit a
41 health care provider from obtaining, using, disclosing, or permitting
42 access to any personal health information, either directly or indirectly
43 through its agents:

44 (1) As otherwise authorized or required by state or federal law;
45 or

46 (2) With the lawful consent of the person to whom the personal
47 health information pertains.

48 5. No provision of this section shall be construed to prohibit any
49 health carrier, as defined in section 376.1350, RSMo, from obtaining
50 personal health information for the purposes of completing insurance
51 applications, underwriting purposes, adjudication of claims, and
52 conducting other insurance-related business provided that such health
53 carrier shall have complied with the provisions of all federal and state
54 statutes and rules.

55 6. As used in this section, the following terms shall mean:

56 (1) "Personal health information", any identifiable information,

57 in electronic or physical form, regarding the individual's health,
58 medical history, medical treatment, or diagnosis by a health care
59 provider;

60 (2) "Health care provider", any physician, hospital, health
61 maintenance organization, ambulatory surgical center, long-term care
62 facility, including those licensed under chapter 198, RSMo, dentist,
63 registered or licensed practical nurse, optometrist, podiatrist,
64 pharmacist, chiropractor, professional physical therapist, psychologist,
65 physician in training, or any other person or entity that provides
66 health care services under the authority of a license or certificate.

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Bill

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