

SENATE BILL NO. 1041

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GIBBONS.

Read 1st time February 13, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

5118S.01I

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
2 section, to be known as section 570.350, to read as follows:

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

3 **(1) Knowingly procures, attempts to procure, solicits, or**
4 **conspires with another to procure the personal health information of**
5 **any resident of this state without authorization of the person to whom**
6 **the personal health information pertains; or**

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

8 **(a) Knowingly sells, or attempts to sell, a personal health**
9 **information record of any resident of this state without the**
10 **authorization of the person to whom the record pertains; or**

11 **(b) Receives a personal health information record of any resident**
12 **of this state knowing that such record has been obtained without the**
13 **authorization of the person to whom the record pertains or by**
14 **fraudulent, deceptive, or false means.**

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

17 **(1) A fine of not less than five hundred dollars nor more than one**
18 **thousand dollars or imprisonment for not more than two years, or both**
19 **such fine and imprisonment, if the violation of subsection 1 of this**
20 **section involves a single personal health information record of a**

21 resident of this state;

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

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

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

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

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

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

44 5. As used in this section, the following terms shall mean:

45 (1) "Personal health information", any identifiable information,
46 in electronic or physical form, regarding the individual's health,
47 medical history, medical treatment, or diagnosis by a health care
48 provider;

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

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