

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1041
93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR GIBBONS.

Offered April 11, 2006.

Senate Substitute adopted, April 11, 2006.

Taken up for Perfection April 11, 2006. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

5118S.07P

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 knowingly obtaining,
2 receiving, or selling personal health information without consent if
3 such person:**

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

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

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

13 **(b) Receives personal health information of any resident of this
14 state knowing that such information has been obtained without the
15 consent of the person to whom the information pertains or by**

16 **fraudulent, deceptive, or false means.**

17 **2. The crime of knowingly obtaining, receiving, or selling**
18 **personal health information without consent is a class D felony if such**
19 **crime is committed against at least one but not more than five**
20 **persons. Such crime shall be a class C felony if committed against more**
21 **than five persons.**

22 **3. No provision of this section shall be construed so as to prevent**
23 **any action by a law enforcement or any governmental agency, or any**
24 **officer, employee, or agent of such agency, including the Missouri**
25 **attorney general or any of his or her agents and any county or**
26 **municipal prosecutor and his or her agents, to obtain, use, or disclose**
27 **personal health information in connection with the performance of the**
28 **official duties of the agency, as allowed by state or federal privacy**
29 **laws.**

30 **4. No provision of this section shall be construed to prohibit a**
31 **health care provider from obtaining, using, disclosing, or permitting**
32 **access to any personal health information, either directly or indirectly**
33 **through its agents:**

34 **(1) As otherwise authorized or required by state or federal law;**
35 **or**

36 **(2) As directed by said person or his or her legal representative.**

37 **5. No provision of this section shall be construed to prevent an**
38 **insurance company, as defined in section 375.012, RSMo, a workers'**
39 **compensation carrier, a third-party administrator, or an employer**
40 **administering or investigating a workers' compensation injury from**
41 **obtaining, using, disclosing, or permitting access to any personal health**
42 **information or personal health information record, either directly or**
43 **indirectly through its agents, as permitted by state laws and**
44 **regulations governing the conduct of insurance companies with respect**
45 **to personal information, including personal health information.**

46 **6. No provision of this section shall be construed so as to limit**
47 **conducting any medical research as defined in 45 CFR Part 46.**

48 **7. No provision of this section shall be construed to prohibit**
49 **reporting personal health information where authorized or required by**
50 **law.**

51 **8. As used in this section, the following terms shall mean:**

52 **(1) "Personal health information", any identifiable information,**

53 in electronic or physical form, regarding the individual's health,
54 medical history, medical treatment, or diagnosis by a health care
55 provider that is:

56 (a) Created or stored by the healthcare provider or health
57 carrier in the normal course of its business operations; and

58 (b) Not otherwise available publicly or in the public domain;

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

✓

Bill

Copy