

1999 ASSEMBLY BILL 102

February 9, 1999 – Introduced by Representatives SCHNEIDER, TRAVIS, AINSWORTH, J. LEHMAN, F. LASEE, ALBERS, KREUSER, GOETSCH, RYBA, MONTGOMERY, KRUG, GRONEMUS, BOYLE and KAUFERT, cosponsored by Senators ERPENBACH, ROBSON and DARLING. Referred to Committee on Judiciary and Personal Privacy.

- 1 **AN ACT to create** 895.505 of the statutes; **relating to:** disposal of documents
2 containing personal information.

Analysis by the Legislative Reference Bureau

This bill prohibits businesses from disposing of records containing certain personal information unless certain requirements are met. A business may dispose of records containing personal information if, prior to the disposal of the record, the business shreds, erases or otherwise modifies the record to make the personal information unreadable. Alternatively, a business may dispose of records containing personal information if the business takes actions that it reasonably believes will ensure that no unauthorized person will have access to the records for the period of time between the records' disposal and the records' destruction. The bill defines "record" to include any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of its physical form. It defines "personal information" to mean information about an individual's medical or financial condition that is not generally considered to be public knowledge. The information must be capable of being associated with a particular individual. A business that violates the provisions of the bill is liable to any person damaged by the violation for the amount of damages and for reasonable attorney fees.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

ASSEMBLY BILL 102

1 **SECTION 1.** 895.505 of the statutes is created to read:

2 **895.505 Disposal of records containing personal information. (1)**

3 DEFINITIONS. In this section:

4 (a) “Business” means an organization or enterprise operated for profit,
5 including a sole proprietorship, partnership, firm, business trust, joint venture,
6 syndicate, corporation, limited liability company or association.

7 (b) “Personal information” means personally identifiable data about an
8 individual’s medical or financial condition that is not generally considered to be
9 public knowledge.

10 (c) “Personally identifiable” means capable of being associated with a
11 particular individual through one or more identifiers or other information or
12 circumstances.

13 (d) “Record” means any material on which written, drawn, printed, spoken,
14 visual or electromagnetic information is recorded or preserved, regardless of
15 physical form or characteristics.

16 **(2) DISPOSAL OF RECORDS CONTAINING PERSONAL INFORMATION.** A business may not
17 dispose of a record containing personal information unless:

18 (a) Prior to the disposal of the record, the business shreds, erases or otherwise
19 modifies the record to make the personal information unreadable.

20 (b) The business takes actions that it reasonably believes will ensure that no
21 unauthorized person will have access to the personal information contained in the
22 record for the period between the record’s disposal and the record’s destruction.

23 **(3) CAUSE OF ACTION.** Notwithstanding s. 814.04 (1), a business that violates
24 sub. (2) is liable to any person damaged by the violation for the amount of damages
25 and for reasonable attorney fees.

