

1999 SENATE BILL 46

February 18, 1999 – Introduced by Senators ERPENBACH, PLACHE, JAUCH, WIRCH, ROSENZWEIG, DARLING and A. LASEE, cosponsored by Representatives FOTI, SCHNEIDER, POCAN, SCHOOFF, HAHN, FREESE, BOCK, STEINBRINK, LA FAVE, KREUSER, J. LEHMAN, MUSSER, TURNER, HEBL, POWERS, TRAVIS, PLOUFF and BOYLE. Referred to Committee on Privacy, Electronic Commerce and Financial Institutions.

- 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 financial institutions, tax preparers and businesses who possess medical records from disposing of records containing certain personal information unless certain requirements are met. These businesses may dispose of records containing personal information if, prior to the disposal of the record, these businesses shred, erase or otherwise modify the record to make the personal information unreadable. Alternatively, these businesses may dispose of records containing personal information if the businesses take actions that they reasonably believe 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. The businesses that violate the provisions of the bill are 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:

SENATE BILL 46

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) “Financial institution” means any bank, savings bank, savings and loan
5 association or credit union that is authorized to do business under state or federal
6 laws relating to financial institutions.

7 (b) “Medical business” means any organization or enterprise operated for
8 profit, including a sole proprietorship, partnership, firm, business trust, joint
9 venture, syndicate, corporation, limited liability company or association, that
10 possesses information relating to a person’s physical or mental health, medical
11 history or medical treatment.

12 (c) “Personal information” means personally identifiable data about an
13 individual’s medical or financial condition that is not generally considered to be
14 public knowledge.

15 (d) “Personally identifiable” means capable of being associated with a
16 particular individual through one or more identifiers or other information or
17 circumstances.

18 (e) “Record” means any material on which written, drawn, printed, spoken,
19 visual or electromagnetic information is recorded or preserved, regardless of
20 physical form or characteristics.

21 (f) “Tax preparation business” means any organization or enterprise operated
22 for profit, including a sole proprietorship, partnership, firm, business trust, joint
23 venture, syndicate, corporation, limited liability company or association, that
24 possesses information relating to a person’s federal, state or local tax filings.

