

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 SENATE BILL 46**

September 14, 1999 – Offered by 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, use of personal information in disposed
3 records and providing a penalty.

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

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

5 **895.505 Records containing personal information. (1) DEFINITIONS.** In
6 this section:

7 (a) “Credit card” has the meaning given in s. 421.301 (15).

8 (am) “Dispose” does not include a sale of a record or the transfer of a record for
9 value.

10 (b) “Financial institution” means any bank, savings bank, savings and loan
11 association or credit union that is authorized to do business under state or federal

1 laws relating to financial institutions, any issuer of a credit card or any investment
2 company.

3 (c) “Investment company” has the meaning given in s. 180.0103 (11e).

4 (d) “Medical business” means any organization or enterprise operated for profit
5 or not for profit, including a sole proprietorship, partnership, firm, business trust,
6 joint venture, syndicate, corporation, limited liability company or association, that
7 possesses information, other than personnel records, relating to a person’s physical
8 or mental health, medical history or medical treatment.

9 (e) “Personal information” means any of the following:

10 1. Personally identifiable data about an individual’s medical condition, if the
11 data is not generally considered to be public knowledge.

12 2. Personally identifiable data that contains an individual’s account or
13 customer number, account balance, balance owing, credit balance or credit limit, if
14 the data relates to an individual’s account or transaction with a financial institution.

15 3. Personally identifiable data provided by an individual to a financial
16 institution upon opening an account or applying for a loan or credit.

17 4. Personally identifiable data about an individual’s federal, state or local tax
18 returns.

19 (f) “Personally identifiable” means capable of being associated with a particular
20 individual through one or more identifiers or other information or circumstances.

21 (g) “Record” means any material on which written, drawn, printed, spoken,
22 visual or electromagnetic information is recorded or preserved, regardless of
23 physical form or characteristics.

24 (h) “Tax preparation business” means any organization or enterprise operated
25 for profit, including a sole proprietorship, partnership, firm, business trust, joint

1 venture, syndicate, corporation, limited liability company or association, that for a
2 fee prepares an individual's federal, state or local tax returns or counsels an
3 individual regarding the individual's federal, state or local tax returns.

4 **(2) DISPOSAL OF RECORDS CONTAINING PERSONAL INFORMATION.** A financial
5 institution, medical business or tax preparation business may not dispose of a record
6 containing personal information unless the financial institution, medical business,
7 tax preparation business or other person under contract with the financial
8 institution, medical business or tax preparation business does any of the following:

9 (a) Shreds the record before the disposal of the record.

10 (b) Erases the personal information contained in the record before the disposal
11 of the record.

12 (c) Modifies the record to make the personal information unreadable before the
13 disposal of the record.

14 (d) Takes actions that it reasonably believes will ensure that no unauthorized
15 person will have access to the personal information contained in the record for the
16 period between the record's disposal and the record's destruction.

17 **(3) CIVIL LIABILITY; DISPOSAL AND USE.** (a) A financial institution, medical
18 business or tax preparation business is liable to a person whose personal information
19 is disposed of in violation of sub. (2) for the amount of damages resulting from the
20 violation.

21 (b) Any person who, for any purpose, uses personal information contained in
22 a record that was disposed of by a financial institution, medical business or tax
23 preparation business is liable to an individual who is the subject of the information
24 and to the financial institution, medical business or tax preparation business that
25 disposed of the record for the amount of damages resulting from the person's use of

1 the information. This paragraph does not apply to a person who uses personal
2 information with the authorization or consent of the individual who is the subject of
3 the information.

4 **(4) PENALTIES; DISPOSAL AND USE.** (a) A financial institution, medical business
5 or tax preparation business that violates sub. (2) may be required to forfeit not more
6 than \$1,000. Acts arising out of the same incident or occurrence shall be a single
7 violation.

8 (b) Any person who possesses a record that was disposed of by a financial
9 institution, medical business or tax preparation business and who intends to use, for
10 any purpose, personal information contained in the record may be fined not more
11 than \$1,000 or imprisoned for not more than 90 days or both. This paragraph does
12 not apply to a person who possesses a record with the authorization or consent of the
13 individual whose personal information is contained in the record.

14 **SECTION 2. Effective date.**

15 (1) This act takes effect on the first day of the 4th month beginning after
16 publication.

17 **(END)**