

# HOUSE BILL No. 5857

March 14, 2006, Introduced by Rep. Sak and referred to the Committee on Energy and Technology.

A bill to amend 2004 PA 452, entitled  
"Identity theft protection act,"  
by amending section 5 (MCL 445.65).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5. (1) A person shall not do any of the following:

2           (a) With intent to defraud or violate the law, use or attempt  
3 to use the personal identifying information of another person to do  
4 either of the following:

5           (i) Obtain credit, goods, services, money, property, a vital  
6 record, **A TELECOMMUNICATION SERVICE RECORD**, medical records or  
7 information, or employment.

1 (ii) Commit another unlawful act.

2 (b) By concealing, withholding, or misrepresenting the  
3 person's identity, use or attempt to use the personal identifying  
4 information of another person to do either of the following:

5 (i) Obtain credit, goods, services, money, property, a vital  
6 record, **A TELECOMMUNICATION SERVICE RECORD**, medical records or  
7 information, or employment.

8 (ii) Commit another unlawful act.

9 (2) A person who violates subsection (1)(b)(i) may assert 1 or  
10 more of the following as a defense in a civil action or as an  
11 affirmative defense in a criminal prosecution, and has the burden  
12 of proof on that defense by a preponderance of the evidence:

13 (a) That the person gave a bona fide gift for or for the  
14 benefit or control of, or use or consumption by, the person whose  
15 personal identifying information was used.

16 (b) That the person acted in otherwise lawful pursuit or  
17 enforcement of a person's legal rights, including an investigation  
18 of a crime or an audit, collection, investigation, or transfer of a  
19 debt, child or spousal support obligation, tax liability, claim,  
20 receivable, account, or interest in a receivable or account.

21 (c) That the action taken was authorized or required by state  
22 or federal law, rule, regulation, or court order or rule.

23 (d) That the person acted with the consent of the person whose  
24 personal identifying information was used, unless the person giving  
25 consent knows that the information will be used to commit an  
26 unlawful act.

27 Enacting section 1. This amendatory act does not take effect

- 1 unless Senate Bill No.\_\_\_\_ or House Bill No. 5858(request no.
- 2 05772'06) of the 93rd Legislature is enacted into law.