

# HOUSE BILL NO. 5707

May 07, 2024, Introduced by Reps. Borton, Friske, Rigas, Bezotte and Beeler and referred to the Committee on Government Operations.

A bill to amend 2004 PA 452, entitled  
"Identity theft protection act,"  
by amending section 9 (MCL 445.69), as amended by 2010 PA 318.

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

1           Sec. 9. (1) Subject to subsection ~~(6)~~, **(7)**, a person who  
2 violates section 5 ~~or 7~~ is guilty of a felony. ~~punishable as~~  
3 ~~follows:~~

4           ~~(a) Except as otherwise provided in subdivisions (b) and (c),~~  
5 ~~by imprisonment for not more than 5 years or a fine of not more~~  
6 ~~than \$25,000.00, or both.~~

1 ~~(b) If the violation is a second violation of section 5 or 7,~~  
2 ~~by imprisonment for not more than 10 years or a fine of not more~~  
3 ~~than \$50,000.00, or both.~~

4 ~~(c) If the violation is a third or subsequent violation of~~  
5 ~~section 5 or 7, by imprisonment for not more than 15 years or a~~  
6 ~~fine of not more than \$75,000.00, or both.~~**The court shall sentence**  
7 **the person to imprisonment for not less than 10 years or more than**  
8 **life.**

9 **(2) Subject to subsection (7), a person who violates section 7**  
10 **is guilty of a felony. The court shall sentence the person to**  
11 **imprisonment for not less than 2 years and 6 months or more than**  
12 **life.**

13 **(3) ~~(2)~~**Sections 5 and 7 apply whether an individual who is a  
14 victim or intended victim of a violation of 1 of those sections is  
15 alive or deceased at the time of the violation.

16 **(4) ~~(3)~~**This section does not prohibit a person from being  
17 charged with, convicted of, or sentenced for any other violation of  
18 law committed by that person using information obtained in  
19 violation of this section or any other violation of law committed  
20 by that person while violating or attempting to violate this  
21 section.

22 **(5) ~~(4)~~**The court may order that a term of imprisonment  
23 imposed under this section be served consecutively to any term of  
24 imprisonment imposed for a conviction of any other violation of law  
25 committed by that person using the information obtained in  
26 violation of this section or any other violation of law committed  
27 by that person while violating or attempting to violate this  
28 section.

29 **(6) ~~(5)~~**A person may assert as a defense in a civil action or

1 as an affirmative defense in a criminal prosecution for a violation  
2 of section 5 or 7, and has the burden of proof on that defense by a  
3 preponderance of the evidence, that the person lawfully  
4 transferred, obtained, or attempted to obtain personal identifying  
5 information of another person for the purpose of detecting,  
6 preventing, or deterring identity theft or another crime or the  
7 funding of a criminal activity.

8       **(7)** ~~(6) Subsection (1) does~~ **Subsections (1) and (2) do** not  
9 apply to a violation of a statute or rule administered by a  
10 regulatory board, commission, or officer acting under authority of  
11 this state or the United States that confers primary jurisdiction  
12 on that regulatory board, commission, or officer to authorize,  
13 prohibit, or regulate the transactions and conduct of that person,  
14 including, but not limited to, a state or federal statute or rule  
15 governing a financial institution and the insurance code of 1956,  
16 1956 PA 218, MCL 500.100 to 500.8302, if the act is committed by a  
17 person subject to and regulated by that statute or rule, or by  
18 another person who has contracted with that person to use personal  
19 identifying information.

20       Enacting section 1. This amendatory act takes effect 90 days  
21 after the date it is enacted into law.