

**Unofficial Draft Copy**

As of: September 7, 2006 (4:33pm)

LC9833

\*\*\*\* Bill No. \*\*\*\*

Introduced By \*\*\*\*\*

By Request of the \*\*\*\*\*

A Bill for an Act entitled: "An Act providing criteria for sharing information about identity theft passports; requiring notification in writing from original creditor if third-party debt collector to be used; including creditors under certain terms of Fair Debt Collection Practices Act; changing department of administration to department of justice for oversight of consumer protection issues in title 31, chapter 3, part 1; and amending sections 31-3-111 and 31-3-152, MCA."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Identity theft passport use procedures -- notification of passport holder.** (1) When a law enforcement agency, state or local government agency accepts an identity theft passport, the law enforcement agency, state, or local government agency may make a notation in that person's data file to minimize the number of official contacts necessary for a victim to make and to allow the law enforcement agency, state, or local government agencies to notify those eligible to receive confidential criminal justice information that an identity theft passport exists.

(2) The law enforcement agency, state, or local government agency may notify the holder of the identity theft passport if

there is evidence that another individual has attempted to misuse the identity theft passport holder's personal identifying information, as defined in 45-6-332.

NEW SECTION. **Section 2. Creditor notification.** A creditor that assigns collection of debt to a third-party shall notify the debtor in writing of the assignment.

NEW SECTION. **Section 3. Unlawful debt collection practices.** (1) In addition to the unlawful practices described in 15 U.S.C. 1601 et seq., known as the Fair Debt Collection Practices Act, a creditor and a debt collector may not:

(a) communicate with a debtor or the debtor's spouse in a harassing, intimidating, or threatening manner, including:

(i) more than three times in a single week by telephone;

(ii) at the debtor's place of employment; or

(iii) at the debtor's residence between the hours of 9:00 p.m. and 7:30 a.m.; or

(b) initiate oral communication more than once if a debtor has done all of the following:

(i) notified the creditor in writing that the debtor's checkbook or other series of preprinted written instruments was stolen or fraudulently created;

(ii) disputed in writing to the creditor a debt arising from a series of dishonored checks, automated clearinghouse transactions on a demand deposit account, or other preprinted written instruments;

(iii) provided proof to the creditor of receiving an identity theft passport under 46-24-220 under a complaint that included theft of financial account information, checks, or other series of preprinted written instruments used to access a financial account; and

(iv) provided the creditor with:

(A) account information, including the account number, the full bank routing and transit number, if available, and other information determined by the department by rule; and

(B) a legible copy of a government-issued photo identification that contains the debtor's signature and that was issued prior to the date of the theft or fraud identified on the identity theft passport.

(2) For the purposes of this section, the term "debtor" may include an individual who contends a debt was accrued by another individual as part of an identity theft.

**Section 4.** Section 31-3-111, MCA, is amended to read:

**"31-3-111. Permissible purposes of reports.** A consumer reporting agency may furnish a consumer report under the following circumstances and no other:

(1) in response to the order of a court having jurisdiction to issue such an order;

(2) in accordance with the written instructions of the consumer to whom it relates;

(3) to a person which it has reason to believe:

(a) intends to use the information in connection with a

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credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer;

(b) intends to use the information for employment purposes;

(c) intends to use the information in connection with the underwriting of insurance involving the consumer;

(d) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(e) otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

(4) (a) To be eligible for the legitimate business need under subsection (3) (e), a person shall:

(i) notify by email, by letter, or in person the consumer that is the subject of the inquiry of an intent to use or sell that consumer's consumer report or personal information; and

(ii) obtain the consumer's consent.

(b) For the purposes of this subsection "personal information" has the meaning provided in 30-14-1702."

{ Internal References to 31-3-111:

31-3-102

31-3-114

31-3-114

31-3-121 }

**Section 5.** Section 31-3-152, MCA, is amended to read:

**"31-3-152. Rules.** The department of ~~administration~~ justice

shall enforce this part and adopt rules necessary to carry out the intent of this part."

{*Internal References to 31-3-152: None.*}

**NEW SECTION. Section 6. {standard} Codification**

**instruction.** (1) [Section 1] is intended to be codified as an integral part of Title 46, chapter 24, part 2, and the provisions of Title 46, chapter 24, part 2, apply to [section 1].

(2) [Sections 2 and 3] are intended to be codified as an integral part of Title 31, chapter 2, part 1, and the provisions of Title 31, chapter 2, part 1, apply to [sections 2 and 3].

- END -

{Name : Pat Murdo  
Title : Legislative Research Analyst  
Agency : Legislative Services Division  
Phone : 444-3594  
E-Mail : pmurdo@state.mt.us}