

HCS HB 536 -- NON-PUBLIC PERSONAL HEALTH INFORMATION

SPONSOR: Holand (Bishop)

COMMITTEE ACTION: Voted "do pass" by the Committee on Health Care Policy by a vote of 11 to 2.

This substitute prohibits the selling or any disclosure of non-public personal health information to a third party for the purpose of: (1) marketing a product or service; (2) making employment decisions; (3) determining credit worthiness; or (4) maliciously causing harm to the person. The substitute does not apply in cases where the person cannot be identified from the information or when disclosure of this information is necessary to comply with any other law or court order. A person may provide written authorization for the disclosure of his or her information, which will be valid for two years. The substitute exempts consumer reporting agencies, debt collectors, and businesses that are providing this information as part of the sale or merger of a business.

Insurance entities are deemed to be in compliance with the substitute upon either: (1) demonstrating a good faith effort to comply with federal privacy rules; or (2) complying with model legislation adopted by the National Association of Insurance Commissioners.

The Department of Insurance will enforce the substitute regarding insurance entities who may be sued for unfair trade practices. All other violators will be prosecuted by the state agency with primary regulatory authority over the person or, if there is none, the Attorney General. Persons in violation may be fined up to \$500 for each violation. These fines will be paid into the School Fund.

The provisions of the substitute will become effective January 1, 2004.

FISCAL NOTE: Not available at time of printing.

PROPOSERS: Supporters say that the bill prohibits the disclosure of non-public health information without prior written authorization. Regulations governing the release of the information should be no different than regulations governing the release of other confidential medical information. The bill does not exceed federal privacy rules governing the release of this information. The bill increases consumer protection for Missourians who request that the information remain confidential unless an authorization for release is obtained.

Testifying for the bill were Representative Bishop; Department of Insurance; and Office of the Attorney General.

OPPONENTS: There was no opposition voiced to the committee.

Joseph Deering, Legislative Analyst