

The Senate Judiciary Committee offered the following substitute to SB 334:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to
2 forgery and fraudulent practices, so as to provide definitions; to create the crime of medical
3 identity fraud; to provide for punishment; to provide that actual and punitive damages are
4 available to victims of medical identity fraud; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

7 Chapter 9 of Title 16 of the Official Code of Georgia Annotated, relating to forgery and
8 fraudulent practices, is amended by adding a new article to read as follows:
9

"ARTICLE 10

10
11 16-9-170.

12 As used in this article, the term:

13 (1) 'Health care records' means records however maintained and in whatever form
14 regarding an individual's health including, but not limited to, doctor's and nurse's
15 examination and other notes, examination notes of other medical professionals, hospital
16 records, rehabilitation facility records, nursing home records, assisted living facility
17 records, results of medical tests, X-rays, CT scans, MRI scans, vision examinations,
18 pharmacy records, prescriptions, hospital charts, surgical records, mental health
19 treatments and counseling, dental records, and physical therapy notes and evaluations.

20 (2) 'Health care resources' means health insurance, health savings accounts, health
21 spending accounts, flexible spending accounts, medicare accounts, Medicaid accounts,
22 dental insurance, vision insurance, and other forms of health insurance and health benefit
23 plans.

24 (3) 'Identifying information' shall include, but not be limited to:

25 (A) Current or former names;

- 26 (B) Social security numbers;
 27 (C) Driver's license numbers;
 28 (D) Checking account numbers;
 29 (E) Savings account numbers;
 30 (F) Credit and other financial transaction card numbers;
 31 (G) Debit card numbers;
 32 (H) Personal identification numbers;
 33 (I) Electronic identification numbers;
 34 (J) Digital or electronic signatures;
 35 (K) Medical identification numbers;
 36 (L) Birth dates;
 37 (M) Mother's maiden name;
 38 (N) Selected personal identification numbers;
 39 (O) Tax identification numbers;
 40 (P) Veteran and military medical identification numbers;
 41 (Q) State identification card numbers issued by state departments; or
 42 (R) Any other numbers or information which can be used to access a person's or
 43 entity's health care records or resources.

44 (4) 'Numbers' means all combinations of letters, numbers, and symbols used to create
 45 identifying information or codes regarding individuals.

46 16-9-171.

47 (a) A person commits the offense of medical identity fraud when he or she willfully and
 48 fraudulently for the purpose of obtaining medical care, prescription drugs, or other health
 49 care services or money or other financial gain:

50 (1) Without authorization or consent, uses, or possesses with intent to fraudulently use,
 51 identifying information concerning an individual;

52 (2) Uses identifying information of an individual under 18 years old over whom he or
 53 she exercises custodial authority;

54 (3) Uses, or possesses with intent to fraudulently use, identifying information concerning
 55 a deceased individual;

56 (4) Creates or uses, or possesses with intent to fraudulently use, any counterfeit or
 57 fictitious identifying information concerning a fictitious individual with intent to use such
 58 counterfeit or fictitious identification information for the purpose of committing or
 59 facilitating the commission of a crime or fraud on another person; or

60 (5) Without authorization or consent, creates or uses, or possesses with intent to
 61 fraudulently use, any counterfeit or fictitious identifying information concerning a real

62 individual with intent to use such counterfeit or fictitious identification information for
63 the purpose of committing or facilitating the commission of a crime or fraud on another
64 person.

65 (b) The offense created by this Code section shall not merge with any other offense.

66 (c) Any person who commits the offense of medical identity fraud shall be guilty of a
67 felony and, upon conviction thereof, shall be punished by imprisonment for not less than
68 two nor more than ten years, by a fine not to exceed \$100,000.00, or by both. Any person
69 who is convicted of medical identity fraud shall upon the second or subsequent conviction
70 be guilty of a felony and shall be punished by imprisonment for not less than three nor
71 more than 15 years, by a fine not to exceed \$250,000.00, or by both.

72 (d) Each violation of this article shall constitute a separate offense.

73 16-9-172.

74 Any victim who is injured by reason of any violation of this article shall have a cause of
75 action for the actual damages sustained and, where appropriate, punitive damages. Such
76 victim may also recover attorney's fees in the trial and appellate courts and the costs of
77 investigation and litigation reasonably incurred."

78 **SECTION 2.**

79 All laws and parts of laws in conflict with this Act are repealed.