

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2202 Session of
2000

INTRODUCED BY BIRMELIN, BAKER, BATTISTO, BELARDI, BROWNE, CARN,
CLYMER, DAILEY, EGOLF, FARGO, FICHTER, FORCIER, HARHAI,
HASAY, HERMAN, HESS, KELLER, LEH, LYNCH, MAITLAND, MARSICO,
METCALFE, R. MILLER, NAILOR, PETRARCA, RAMOS, READSHAW,
ROHRER, ROSS, SATHER, SAYLOR, SCHRODER, SCHULER, STABACK,
STERN, STEVENSON, E. Z. TAYLOR, TIGUE, TRUE, WALKO, WILT, ZUG
AND WASHINGTON, JANUARY 31, 2000

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 18, 2000

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania
2 Consolidated Statutes, further providing for weapons or
3 implements for escape; ADDING PROVISIONS RELATING TO PRIVACY <—
4 PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL
5 TRANSACTIONS; AND IMPOSING PENALTIES.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 5122(a) of Title 18 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 5122. Weapons or implements for escape.

11 (a) Offenses defined.--

12 (1) A person commits a misdemeanor of the first degree
13 if he ~~knowingly, intentionally, recklessly or negligently~~ <—
14 ~~unlawfully introduces within a detention facility,~~
15 ~~correctional institution or mental hospital, or unlawfully IF~~ <—
16 HE UNLAWFULLY AND:

1 FALSE PRETENSES.

2 7374. NONAPPLICABILITY.

3 7375. PENALTY.

4 7376. REGULATIONS.

5 § 7371. DEFINITIONS.

6 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
7 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
8 CONTEXT CLEARLY INDICATES OTHERWISE:

9 "CUSTOMER." WITH RESPECT TO A FINANCIAL INSTITUTION, ANY
10 PERSON, OR AUTHORIZED REPRESENTATIVE OF A PERSON, TO WHOM THE
11 FINANCIAL INSTITUTION PROVIDES A PRODUCT OR SERVICE, INCLUDING
12 THAT OF ACTING AS A FIDUCIARY.

13 "CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION." ANY
14 INFORMATION MAINTAINED BY OR FOR A FINANCIAL INSTITUTION WHICH
15 IS DERIVED FROM THE RELATIONSHIP BETWEEN THE FINANCIAL
16 INSTITUTION AND A CUSTOMER OF THE FINANCIAL INSTITUTION AND IS
17 IDENTIFIED WITH THE CUSTOMER.

18 "DOCUMENT." ANY INFORMATION IN ANY FORM.

19 "FINANCIAL INSTITUTION." ANY INSTITUTION ENGAGED IN THE
20 BUSINESS OF PROVIDING FINANCIAL SERVICES TO CUSTOMERS WHO
21 MAINTAIN A CREDIT, DEPOSIT, TRUST OR OTHER FINANCIAL ACCOUNT OR
22 RELATIONSHIP WITH THE INSTITUTION. THE FOLLOWING APPLY:

23 (1) THE TERM INCLUDES ANY DEPOSITORY INSTITUTION, ANY
24 BROKER OR DEALER, ANY INVESTMENT ADVISER OR INVESTMENT
25 COMPANY, ANY INSURANCE COMPANY, ANY LOAN OR FINANCE COMPANY,
26 ANY CREDIT CARD ISSUER OR OPERATOR OF A CREDIT CARD SYSTEM
27 AND ANY CONSUMER REPORTING AGENCY THAT COMPILES AND MAINTAINS
28 FILES ON CONSUMERS ON A NATIONWIDE BASIS.

29 (2) FOR PURPOSES OF THIS DEFINITION:

30 (I) THE TERMS "BROKER" AND "DEALER" HAVE THE SAME

1 MEANINGS AS GIVEN IN SECTION 3 OF THE SECURITIES EXCHANGE
2 ACT OF 1934 (48 STAT. 74, 15 U.S.C. § 77A ET SEQ.);

3 (II) THE TERM "INVESTMENT ADVISER" HAS THE SAME
4 MEANING AS GIVEN IN SECTION 202(A)(11) OF THE INVESTMENT
5 ADVISERS ACT OF 1940 (54 STAT. 847, 15 U.S.C. § 80B-1 ET
6 SEQ.); AND

7 (III) THE TERM "INVESTMENT COMPANY" HAS THE SAME
8 MEANING AS GIVEN IN SECTION 3 OF THE INVESTMENT COMPANY
9 ACT OF 1940 (54 STAT. 789, 15 U.S.C. § 80A-1 ET SEQ.).

10 (3) THE TERM DOES NOT INCLUDE ANY PERSON OR ENTITY WITH
11 RESPECT TO ANY FINANCIAL ACTIVITY THAT IS SUBJECT TO
12 JURISDICTION OF THE COMMODITY FUTURES TRADING COMMISSION
13 UNDER THE COMMODITY EXCHANGE ACT (42 STAT. 988, 7 U.S.C. § 1
14 ET SEQ.) AND DOES NOT INCLUDE THE FEDERAL AGRICULTURAL
15 MORTGAGE CORPORATION OR ANY ENTITY CHARTERED AND OPERATING
16 UNDER THE FARM CREDIT ACT OF 1971 (PUBLIC LAW 92-181, 12
17 U.S.C. §§ 2001-2023).

18 § 7372. PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE
19 PRETENSES.

20 IT SHALL BE UNLAWFUL FOR ANY PERSON TO OBTAIN OR ATTEMPT TO
21 OBTAIN, OR CAUSE TO BE DISCLOSED OR ATTEMPT TO CAUSE TO BE
22 DISCLOSED TO ANY PERSON, CUSTOMER INFORMATION OF A FINANCIAL
23 INSTITUTION RELATING TO ANOTHER PERSON:

24 (1) BY MAKING A FALSE, FICTITIOUS OR FRAUDULENT
25 STATEMENT OR REPRESENTATION TO AN OFFICER, EMPLOYEE OR AGENT
26 OF A FINANCIAL INSTITUTION;

27 (2) BY MAKING A FALSE, FICTITIOUS OR FRAUDULENT
28 STATEMENT OR REPRESENTATION TO A CUSTOMER OF A FINANCIAL
29 INSTITUTION; OR

30 (3) BY PROVIDING ANY DOCUMENT TO AN OFFICER, EMPLOYEE OR

1 AGENT OF A FINANCIAL INSTITUTION, KNOWING THAT THE DOCUMENT
2 IS FORGED, COUNTERFEIT, LOST OR STOLEN, WAS FRAUDULENTLY
3 OBTAINED OR CONTAINS A FALSE, FICTITIOUS OR FRAUDULENT
4 STATEMENT OR REPRESENTATION.

5 § 7373. PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN
6 CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER
7 FALSE PRETENSES.

8 IT SHALL BE UNLAWFUL FOR A PERSON TO REQUEST ANOTHER PERSON
9 TO OBTAIN CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION,
10 KNOWING THAT THE OTHER PERSON WILL OBTAIN, OR ATTEMPT TO OBTAIN,
11 THE INFORMATION FROM THE INSTITUTION IN ANY MANNER DESCRIBED IN
12 SECTION 7372 (RELATING TO PROHIBITION ON OBTAINING CUSTOMER
13 INFORMATION BY FALSE PRETENSES).

14 § 7374. NONAPPLICABILITY.

15 (A) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.--NO
16 PROVISION OF SECTION 7372 (RELATING TO PROHIBITION ON OBTAINING
17 CUSTOMER INFORMATION BY FALSE PRETENSES) OR 7373 (RELATING TO
18 PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER
19 INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES)
20 SHALL BE CONSTRUED SO AS TO PREVENT ANY ACTION BY A LAW
21 ENFORCEMENT AGENCY, OR ANY OFFICER, EMPLOYEE OR AGENT OF SUCH
22 AGENCY, TO OBTAIN CUSTOMER INFORMATION OF A FINANCIAL
23 INSTITUTION IN CONNECTION WITH THE PERFORMANCE OF THE OFFICIAL
24 DUTIES OF THE AGENCY.

25 (B) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN
26 CASES.--NO PROVISION OF SECTION 7372 OR 7373 SHALL BE CONSTRUED
27 SO AS TO PREVENT ANY FINANCIAL INSTITUTION, OR ANY OFFICER,
28 EMPLOYEE OR AGENT OF A FINANCIAL INSTITUTION, FROM OBTAINING
29 CUSTOMER INFORMATION OF SUCH FINANCIAL INSTITUTION IN THE COURSE
30 OF:

1 (1) TESTING THE SECURITY PROCEDURES OR SYSTEMS OF SUCH
2 INSTITUTION FOR MAINTAINING THE CONFIDENTIALITY OF CUSTOMER
3 INFORMATION;

4 (2) INVESTIGATING ALLEGATIONS OF MISCONDUCT OR
5 NEGLIGENCE ON THE PART OF ANY OFFICER, EMPLOYEE OR AGENT OF
6 THE FINANCIAL INSTITUTION; OR

7 (3) RECOVERING CUSTOMER INFORMATION OF THE FINANCIAL
8 INSTITUTION WHICH WAS OBTAINED OR RECEIVED BY ANOTHER PERSON
9 IN ANY MANNER DESCRIBED IN SECTION 7372 OR 7373.

10 (C) NONAPPLICABILITY TO INSURANCE INSTITUTIONS FOR
11 INVESTIGATION OF INSURANCE FRAUD.--NO PROVISION OF SECTION 7372
12 OR 7373 SHALL BE CONSTRUED SO AS TO PREVENT ANY INSURANCE
13 INSTITUTION OR ANY OFFICER, EMPLOYEE OR AGENCY OF AN INSURANCE
14 INSTITUTION, FROM OBTAINING INFORMATION AS PART OF AN INSURANCE
15 INVESTIGATION INTO CRIMINAL ACTIVITY, FRAUD, MATERIAL
16 MISREPRESENTATION OR MATERIAL NONDISCLOSURE THAT IS AUTHORIZED
17 FOR SUCH INSTITUTION UNDER STATE LAW, REGULATION, INTERPRETATION
18 OR ORDER.

19 (D) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER
20 INFORMATION OF FINANCIAL INSTITUTIONS.--NO PROVISION OF SECTION
21 7372 OR 7373 SHALL BE CONSTRUED SO AS TO PREVENT ANY PERSON FROM
22 OBTAINING CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION THAT
23 OTHERWISE IS AVAILABLE AS A PUBLIC RECORD FILED PURSUANT TO
24 SECURITIES LAWS.

25 (E) NONAPPLICABILITY TO COLLECTION OF CHILD SUPPORT
26 JUDGMENTS.--NO PROVISION OF SECTION 7372 OR 7373 SHALL BE
27 CONSTRUED TO PREVENT ANY STATE-LICENSED PRIVATE INVESTIGATOR, OR
28 ANY OFFICER, EMPLOYEE OR AGENT OF SUCH PRIVATE INVESTIGATOR,
29 FROM OBTAINING CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION,
30 TO THE EXTENT REASONABLY NECESSARY TO COLLECT CHILD SUPPORT FROM

1 A PERSON ADJUDGED TO HAVE BEEN DELINQUENT IN THE PERSON'S
2 OBLIGATIONS BY A FEDERAL OR STATE COURT, AND TO THE EXTENT THAT
3 SUCH ACTION BY A STATE-LICENSED PRIVATE INVESTIGATOR IS NOT
4 UNLAWFUL UNDER ANY OTHER FEDERAL OR STATE LAW OR REGULATION, AND
5 HAS BEEN AUTHORIZED BY AN ORDER OR JUDGMENT OF A COURT OF
6 COMPETENT JURISDICTION.

7 § 7375. PENALTY.

8 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), ANY
9 PERSON WHO KNOWINGLY AND INTENTIONALLY VIOLATES, OR KNOWINGLY
10 AND INTENTIONALLY ATTEMPTS TO VIOLATE, SECTION 7372 (RELATING TO
11 PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE
12 PRETENSES) OR 7373 (RELATING TO PROHIBITION ON SOLICITATION OF A
13 PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION
14 UNDER FALSE PRETENSES) COMMITS A MISDEMEANOR OF THE FIRST DEGREE
15 AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT
16 MORE THAN \$10,000 OR TO IMPRISONMENT FOR NOT MORE THAN FIVE
17 YEARS, OR BOTH.

18 (B) ENHANCED PENALTY FOR AGGRAVATED CASES.--ANY PERSON WHO
19 VIOLATES, OR ATTEMPTS TO VIOLATE, SECTION 7372 OR 7373 WHILE
20 VIOLATING ANOTHER LAW OF THE UNITED STATE OR THIS COMMONWEALTH
21 OR AS PART OF A PATTERN OF ANY ILLEGAL ACTIVITY INVOLVING MORE
22 THAN \$100,000 IN A 12-MONTH PERIOD COMMITS A FELONY OF THE THIRD
23 DEGREE AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF
24 NOT MORE THAN \$15,000 OR TO IMPRISONMENT FOR NOT MORE THAN SEVEN
25 YEARS, OR BOTH.

26 § 7376. REGULATIONS.

27 THE DEPARTMENT OF BANKING, AFTER CONSULTATION WITH THE
28 PENNSYLVANIA SECURITIES COMMISSION AND THE ATTORNEY GENERAL, MAY
29 PRESCRIBE REGULATIONS CLARIFYING OR DESCRIBING THE TYPES OF
30 INSTITUTIONS WHICH SHALL BE TREATED AS FINANCIAL INSTITUTIONS

1 FOR PURPOSES OF THIS SUBCHAPTER.

2 Section ~~2~~ 3. This act shall take effect in 60 days.

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