
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2374 Session of
2008

INTRODUCED BY JOSEPHS, CASORIO, DENLINGER, FLECK, FRANKEL,
GEORGE, JAMES, MELIO, MUNDY, MYERS, RAPP, READSHAW, SCHRODER,
SWANGER, THOMAS AND YOUNGBLOOD, SEPTEMBER 18, 2008

REFERRED TO COMMITTEE ON STATE GOVERNMENT, SEPTEMBER 18, 2008

AN ACT

1 Providing for identification devices and for subcutaneous
2 implanting; and imposing civil penalties.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the
7 Identification Device Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Identification device." Any item, application or product
13 that is passively or actively capable of transmitting personal
14 information, including, but not limited to, devices using radio
15 frequency technology.

16 "Person." An individual, business association, partnership,
17 limited partnership, corporation, limited liability company,

1 trust, estate, cooperative association or other entity.

2 "Personal information." Includes any of the following data
3 elements to the extent that they are used alone or in
4 conjunction with any other information used to identify an
5 individual:

6 (1) First or last name.

7 (2) Address.

8 (3) Telephone number.

9 (4) E-mail, Internet protocol or Internet website
10 address.

11 (5) Date of birth.

12 (6) Driver's license number or State identification card
13 number.

14 (7) Bank, credit card or other financial institution
15 account number.

16 (8) Any unique personal identifier contained or encoded
17 on a health insurance, health benefit or benefit card or
18 record issued in conjunction with any government-supported
19 aid program.

20 (9) Religion.

21 (10) Ethnicity or nationality.

22 (11) Photograph.

23 (12) Fingerprint or other biometric identifier.

24 (13) Social Security number.

25 (14) Any unique personal identifier.

26 "Require, coerce or compel." Includes physical violence,
27 threat, intimidation, retaliation, the conditioning of any
28 private or public benefit or care on consent to implantation,
29 including employment, promotion or other employment benefit, or
30 by any means that causes a reasonable person of ordinary

1 susceptibilities to acquiesce to implantation when the person
2 otherwise would not.

3 "Subcutaneous." Existing, performed or introduced under or
4 on the skin.

5 Section 3. General rule.

6 A person shall not require, coerce or compel any other
7 individual to undergo the subcutaneous implanting of an
8 identification device.

9 Section 4. Penalties.

10 (1) Any person who violates this act is subject to civil
11 penalties of up to \$10,000. The civil penalty shall be no
12 more than \$1,000 for each day the violation continues until
13 the deficiency is corrected. That civil penalty may be
14 assessed and recovered in a civil action brought in any court
15 of competent jurisdiction. The court may also grant a
16 prevailing plaintiff reasonable attorney fees and litigation
17 costs, including, but not limited to, expert witness fees and
18 expenses as part of the costs.

19 (2) A person who is implanted with a subcutaneous
20 identification device in violation of this act may bring a
21 civil action for actual damages, compensatory damages,
22 punitive damages, injunctive relief, any combination of those
23 or any other appropriate relief.

24 (3) Punitive damages may also be awarded upon proof of
25 the defendant's malice, oppression, fraud or duress in
26 requiring, coercing or compelling the plaintiff to undergo
27 the subcutaneous implanting of an identification device.

28 Section 5. Limitations.

29 (1) An action brought pursuant to this section shall be
30 commenced within three years of the date upon which the

1 identification device was implanted.

2 (2) If the victim was a dependent adult or minor when
3 the implantation occurred, actions brought pursuant to this
4 section shall be commenced within three years after the date
5 the plaintiff, or the plaintiff's guardian or parent,
6 discovered or reasonably should have discovered the implant,
7 or within eight years after the plaintiff attains the age of
8 majority, whichever date occurs later.

9 (3) The statute of limitations shall not run against a
10 dependent adult or minor plaintiff simply because a guardian
11 ad litem has been appointed. A guardian ad litem's failure to
12 bring a plaintiff's action within the applicable limitation
13 period will not prejudice the plaintiff's right to do so.

14 (4) A defendant is estopped to assert a defense of the
15 statute of limitations when the expiration of the statute is
16 due to conduct by the defendant inducing the plaintiff to
17 delay filing of the action, or due to threats made by the
18 defendant causing duress upon the plaintiff.

19 Section 6. Restitution.

20 Any restitution paid by the defendant to the victim shall be
21 credited against any judgment, award or settlement obtained
22 pursuant to this section. Any judgment, award or settlement
23 obtained pursuant to an action under this section shall be
24 subject to the provisions of 42 Pa.C.S. (relating to Judiciary
25 and Judicial Procedure).

26 Section 7. Privacy.

27 The provisions of this act shall be liberally construed so as
28 to protect privacy and bodily integrity.

29 Section 8. Independent action.

30 Actions brought pursuant to this act are independent of any

1 other actions, remedies or procedures that may be available to
2 an aggrieved party pursuant to any other law.

3 Section 9. Existing law.

4 This section shall not in any way modify existing statutory
5 or case law regarding the rights of parents or guardians, the
6 rights of children or minors or the rights of dependent adults.

7 Section 10. Effective date.

8 This act shall take effect in 60 days.