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H.98

Representatives Burditt of West Rutland and Strong of Albany move that the bill be amended as follows:

First: In Sec. 1, after 18 V.S.A. § 155, before “* * *”, by inserting the following:

§ 156. LIABILITY

(a) Any person who:

(1) Willfully or maliciously discloses the content of any confidential public health record in violation of this chapter shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$25,000.00, costs and attorney’s fees as determined by the court, compensatory and punitive damages, or equitable relief, including restraint of prohibited acts, costs, reasonable attorney’s fees, and other appropriate relief.

(2) Negligently discloses the content of any confidential public health record in violation of this chapter shall be subject to a civil penalty in an amount not to exceed \$2,500.00 plus court costs, as determined by the court, which penalty and costs shall be paid to the subject of the confidential information.

(3) Willfully, maliciously, or negligently discloses the content of any confidential public health record in violation of this chapter shall be guilty of a

1 misdemeanor, punishable by imprisonment for a period not to exceed one year
2 or a fine not to exceed \$25,000.00, or both.

3 (4) Commits any act described in subdivision (1) or (2) of this
4 subsection shall be liable to the subject for all actual damages, including
5 damages for any economic, bodily, or psychological harm that is a proximate
6 result of the act. Each disclosure made in violation of this chapter is a separate
7 and actionable offense. Nothing in this section shall limit or expand the right
8 of an injured subject to recover damages under any other applicable law.

9 (b)(1) ~~No~~ An action for damages arising from the disclosure of
10 confidential or privileged information ~~may~~ shall not be maintained against any
11 person, or the employer or employee of any person, who participates in good
12 faith in the reporting of cancer registry data or data for cancer morbidity or
13 mortality studies in accordance with this chapter.

14 (b)(2) ~~No~~ A license of a health care facility or health care provider ~~may~~
15 shall not be denied, suspended, or revoked for the good faith disclosure of
16 confidential or privileged information in the reporting of cancer registry data or
17 data for cancer morbidity or mortality studies in accordance with this chapter.

18 ~~(c) Nothing in this section shall be construed to apply to the unauthorized~~
19 ~~disclosure of confidential or privileged information when such disclosure is~~
20 ~~due to gross negligence or willful misconduct.~~

1 Second: In Sec. 3, 18 V.S.A. § 1129, by adding a subsection (g) to read:

2 (g) Any person who:

3 (1) Willfully or maliciously discloses the content of any confidential
4 public health record in violation of this section shall be subject to a civil
5 penalty of not less than \$10,000.00 and not more than \$25,000.00, costs and
6 attorney’s fees as determined by the court, compensatory and punitive
7 damages, or equitable relief, including restraint of prohibited acts, costs,
8 reasonable attorney’s fees, and other appropriate relief.

9 (2) Negligently discloses the content of any confidential public health
10 record in violation this section shall be subject to a civil penalty in an amount
11 not to exceed \$2,500.00 plus court costs, as determined by the court, which
12 penalty and costs shall be paid to the subject of the confidential information.

13 (3) Willfully, maliciously, or negligently discloses the content of any
14 confidential public health record in violation of this chapter shall be guilty of a
15 misdemeanor, punishable by imprisonment for a period not to exceed one year
16 or a fine not to exceed \$25,000.00, or both.

17 (4) Commits any act described in subdivision (1) or (2) of this
18 subsection shall be liable to the subject for all actual damages, including
19 damages for any economic, bodily, or psychological harm that is a proximate
20 result of the act. Each disclosure made in violation of this chapter is a separate

- 1 and actionable offense. Nothing in this section shall limit or expand the right
- 2 of an injured subject to recover damages under any other applicable law.