HOUSE BILL 1372

AN ACT prohibiting the implanting of subcutaneous identification devices in individuals.


COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits the implanting of subcutaneous identification devices in individuals.

Explanation: Matter added to current law appears in bold italics. Matter removed from current law appears [in brackets and struckthrough.] Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT prohibiting the implanting of subcutaneous identification devices in individuals.

Be it Enacted by the Senate and House of Representatives in General Court convened:

245:1 New Section; Subcutaneous Identification Devices. Amend RSA 644 by inserting after section 21 the following new section:

644:22 Subcutaneous Identification Devices.

I. For purposes of this section:

(a) "Government" means the federal government, the state government and its political subdivisions, and state and municipal agencies and departments, including employees, agents, and contractors.

(b) "Identification device" means any item, application, or product that is passively or actively capable of transmitting personal information, including, but not limited to, devices using radio frequency technology.

(c) "Individual" means a living human being.

(d) "Person" means a partnership, limited liability company, corporation, and any other organization, including for-profit and not-for-profit entities, and government.

(e) "Personal information" means any data elements, alone or in conjunction with any other information, used to identify an individual, including without limitation name, address, telephone and/or cellular telephone number, email address, date of birth, unique personal identifier or account number, and fingerprint or other biometric identifier.

(f) "Require, coerce, or compel" includes physical violence, threat, intimidation, retaliation, the conditioning of any private or public benefit or care on consent to implantation, including employment, promotion, or other employment benefit, or by any means that causes a reasonable person of ordinary susceptibilities to acquiesce to implantation when he or she otherwise would not.

(g) "Subcutaneous" means existing or introduced under the skin. For purposes of this section, subcutaneous shall not include information temporarily attached to the skin by means of an adhesive strip or bracelet upon which or within which personal information is maintained or stored.

II. Except as provided in paragraph V, a person shall not require, coerce, or compel an individual to undergo the subcutaneous implanting or other internal or
external bodily possession of an identification device. This section shall not apply to inmates incarcerated in or under the control of a government-run prison or jail.

III.(a) Any person who violates this section may be assessed an initial civil penalty of no more than $10,000, and no more than $1,000 for each day the violation continues until the deficiency is corrected. That civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction. The court may also grant a prevailing plaintiff reasonable attorney's fees and litigation costs.

(b) An individual who is implanted with a subcutaneous identification device in violation of this section may bring a civil action for actual damages, compensatory damages, injunctive relief, any combination of those, or any other appropriate relief.

(c) Additionally, punitive damages may also be awarded upon proof of the defendant's malice, oppression, fraud, or duress in requiring, coercing, or compelling the plaintiff to undergo the subcutaneous implanting or other internal bodily possession of an identification device.

IV.(a) An action brought pursuant to this section shall be commenced within 3 years of the date upon which the identification device was implanted.

(b) If the victim was a dependent adult or minor when the implantation occurred, actions brought pursuant to this section shall be commenced within 3 years after the date the plaintiff, or his or her guardian or parent, discovered or reasonably should have discovered the implant, or within 8 years after the plaintiff attains the age of majority, whichever date occurs later.

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

VI. The provisions of this section shall be liberally construed so as to protect privacy and bodily integrity.

245:2 Effective Date. This act shall take effect January 1, 2019.

Approved: June 12, 2018
Effective Date: January 01, 2019