1	HOUSE BILL NO. 446
2	INTRODUCED BY K. SULLIVAN, D. ZOLNIKOV, D. HARVEY, K. BOGNER, A. BUCKLEY, K. KORTUM
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING HEALTH PRIVACY LAWS;
5	ESTABLISHING CONFIDENTIALITY STANDARDS FOR DIGITAL HEALTH CARE; PROVIDING FOR
6	REMEDIES FOR NONCOMPLIANCE; PROVIDING ADDITIONAL REQUIREMENTS FOR A MENTAL
7	HEALTH DIGITAL SERVICE; AND PROVIDING DEFINITIONS."
8	
9	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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11	NEW SECTION. Section 1. Digital health care information confidentiality penalties
12	ADDITIONAL REQUIREMENTS. (1) A mental health digital service is subject to the disclosure and confidentiality
13	provisions of Title 50, chapter 16, part 5, when handling health care information as defined in 50-16-504 on
14	behalf of an individual.
15	(2) A violation of this section may be enforced <u>IN A CIVIL ACTION</u> as provided in 50-16-552, and a
16	person whose information is disclosed in violation of Title 50, chapter 16, part 5, may pursue the remedies
17	allowed in 50-16-553. A PERSON AGGRIEVED BY THE SALE OR PURCHASE OF HEALTH CARE INFORMATION IN VIOLATION
18	OF THIS SECTION MAY RECOVER STATUTORY DAMAGES OF UP TO \$100,000 FOR EACH SALE OR PURCHASE OF THE
19	HEALTH CARE INFORMATION IN ADDITION TO DAMAGES FOR ANY PECUNIARY LOSS UNDER 50-16-553.
20	(3) A PERSON WHO PURPOSELY OR KNOWINGLY SELLS HEALTH CARE INFORMATION IN VIOLATION OF THIS
21	SECTION IS GUILTY OF A FELONY AND UPON CONVICTION IS PUNISHABLE BY IMPRISONMENT FOR A PERIOD NOT
22	EXCEEDING 5 YEARS.
23	(4) A PERSON WHO PURPOSELY OR KNOWINGLY PURCHASES HEALTH CARE INFORMATION SOLD IN
24	VIOLATION OF THIS SECTION IS GUILTY OF A FELONY AND UPON CONVICTION IS PUNISHABLE BY IMPRISONMENT FOR A
25	PERIOD NOT EXCEEDING 5 YEARS.
26	(5) IF APPLICABLE, A PROSECUTOR SHALL SEEK EXTRADITION OF A VIOLATOR OF THIS SECTION FROM A
27	FOREIGN COUNTRY THROUGH THE UNITED STATES DEPARTMENT OF STATE AND THE UNITED STATES DEPARTMENT OF
28	JUSTICE.



1	(3)(6) "Mental health digital service" means a mobile-based application or internet website that
2	collects, obtains, uses, possesses, or accesses information related to an individual's inferred or diagnosed
3	mental health or substance use disorder, markets itself as facilitating mental health or substance use disorder
4	services to an individual, and uses the information provided to facilitate mental health services, including
5	diagnosis, treatment, suggested therapies, or management of the mental health or substance use disorder to
6	an individual.
7	(7) A MENTAL HEALTH DIGITAL SERVICE THAT COLLECTS HEALTH CARE INFORMATION OF A PERSON IN THIS
8	STATE MUST BE EITHER INCORPORATED UNDER THE LAWS OF THIS STATE OR REGISTERED TO DO BUSINESS IN THE
9	STATE AS A FOREIGN CORPORATION UNDER TITLE 35, CHAPTER 14.
10	(8) A MENTAL HEALTH DIGITAL SERVICE THAT COLLECTS HEALTH CARE INFORMATION OF A PERSON IN THIS
11	STATE SHALL FILE AN AFFIRMATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES THAT IT WILL
12	COMPLY WITH THE REQUIREMENTS OF THIS SECTION.
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14	NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
15	integral part of Title 50, chapter 16, part 5, and the provisions of Title 50, chapter 16, part 5, apply to [section 1].

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