



Senate

General Assembly

File No. 635

January Session, 2003

Substitute Senate Bill No. 688

Senate, May 5, 2003

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING IDENTITY THEFT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-129a of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) A person [is guilty of] commits identity theft when such person
4 intentionally obtains personal identifying information of another
5 person without the authorization of such other person and uses that
6 information for any unlawful purpose including, but not limited to,
7 obtaining, or attempting to obtain, money, credit, goods, services,
8 property or medical information in the name of such other person
9 without the consent of such other person.

10 (b) As used in this section, "personal identifying information" means
11 [a] any name, number or other information that may be used, alone or
12 in conjunction with any other information, to identify a specific
13 individual including, but not limited to, such individual's name, date

14 of birth, mother's maiden name, motor vehicle operator's license
15 number, Social Security number, employee identification number,
16 [mother's maiden name,] employer or taxpayer identification number,
17 alien registration number, government passport number, health
18 insurance identification number, demand deposit account number,
19 savings account number, [or] credit card number, debit card number
20 or unique biometric data such as fingerprint, voice print, retina or iris
21 image, or other unique physical representation.

22 [(b) Identity theft is a class D felony.]

23 Sec. 2. (NEW) (*Effective October 1, 2003*) (a) A person is guilty of
24 identity theft in the first degree when such person commits identity
25 theft, as defined in section 53a-129a of the general statutes, as amended
26 by this act, and the value of the property or service obtained exceeds
27 ten thousand dollars.

28 (b) Identity theft in the first degree is a class B felony.

29 Sec. 3. (NEW) (*Effective October 1, 2003*) (a) A person is guilty of
30 identity theft in the second degree when such person commits identity
31 theft, as defined in section 53a-129a of the general statutes, as amended
32 by this act, and the value of the property or service obtained exceeds
33 five thousand dollars.

34 (b) Identity theft in the second degree is a class C felony.

35 Sec. 4. (NEW) (*Effective October 1, 2003*) (a) A person is guilty of
36 identity theft in the third degree when such person commits identity
37 theft, as defined in section 53a-129a of the general statutes, as amended
38 by this act.

39 (b) Identity theft in the third degree is a class D felony.

40 Sec. 5. (NEW) (*Effective October 1, 2003*) (a) A person is guilty of
41 trafficking in personal identifying information when such person sells,
42 gives or otherwise transfers personal identifying information, as
43 defined in section 53a-129a of the general statutes, as amended by this

44 act, of another person to a third person knowing that such information
45 has been obtained without the authorization of such other person and
46 that such third person intends to use such information for an unlawful
47 purpose.

48 (b) Trafficking in personal identifying information is a class D
49 felony.

50 Sec. 6. (NEW) (*Effective October 1, 2003*) Whenever a person is
51 convicted of a violation of section 53a-129a of the general statutes,
52 revision of 1958, revised to January 1, 2003, or section 2, 3 or 4 of this
53 act, the court may issue such orders as are necessary to correct a public
54 record that contains false information as a result of such violation.

55 Sec. 7. (NEW) (*Effective October 1, 2003*) Any person who believes he
56 or she is a victim of a violation of section 53a-129a of the general
57 statutes, revision of 1958, revised to January 1, 2003, or section 2, 3 or 4
58 of this act may file a complaint reporting such alleged violation with
59 the law enforcement agency for the town in which such person resides.
60 Such law enforcement agency shall accept such complaint, prepare a
61 police report on the matter, provide the complainant with a copy of
62 such report and investigate such alleged violation and any other
63 offenses allegedly committed as a result of such violation and shall, if
64 necessary, coordinate such investigation with any other law
65 enforcement agencies.

66 Sec. 8. Section 54-1d of the general statutes is repealed and the
67 following is substituted in lieu thereof (*Effective October 1, 2003*):

68 (a) Except as provided in [subsection (b)] subsections (b) and (c) of
69 this section, defendants in criminal actions shall be brought either to
70 the court in the geographical area established pursuant to section 51-
71 348, in which the crime was alleged to have been committed, or, if the
72 arrest was by warrant, to the court in the geographical area in which
73 the arrest was made, for arraignment. If the defendant was brought to
74 the court in the geographical area in which the arrest was made for
75 arraignment and was not released from custody after such

76 arraignment, the defendant shall be presented to the court in the
77 geographical area in which the crime was alleged to have been
78 committed not later than the second court day following such
79 arraignment. A criminal cause shall not fail on the ground that it has
80 been submitted to a session of improper venue.

81 (b) Any defendant who is charged with multiple offenses under any
82 provision of section 53a-127b or sections 53a-128a to 53a-128i,
83 inclusive, where such offenses were alleged to have been committed in
84 more than one geographical area established pursuant to section 51-
85 348, may be presented to the court in any one of such geographical
86 areas. The court may consolidate all such offenses into a single
87 criminal action and shall have jurisdiction over such action.

88 (c) Any defendant who is charged with a violation of section 53a-
89 129a of the general statutes, revision of 1958, revised to January 1, 2003,
90 or section 2, 3 or 4 of this act and any defendant who is charged with
91 any other offense committed as a result of such violation may be
92 presented to the court in the geographical area in which the victim
93 resides.

94 Sec. 9. (NEW) (*Effective October 1, 2003*) (a) A consumer, as defined
95 in section 36a-695 of the general statutes, who believes he or she is a
96 victim of a violation of section 53a-129a of the general statutes, revision
97 of 1958, revised to January 1, 2003, or section 2, 3 or 4 of this act may
98 request a credit rating agency, as defined in section 36a-695 of the
99 general statutes, to block and not report information appearing on his
100 or her credit report, as defined in section 36a-695 of the general
101 statutes, as a result of such violation. Such consumer shall submit such
102 request, in writing, to the credit rating agency, together with proof of
103 such consumer's identity and a copy of a police report prepared
104 pursuant to section 7 of this act. Not later than thirty days after receipt
105 of such request, the credit rating agency shall block reporting any
106 information that the consumer alleges appears on his or her credit
107 report as a result of such violation so that the information cannot be
108 reported. The credit rating agency shall promptly notify the furnisher

109 of the information that a police report has been filed, that a block has
110 been requested and the effective date of the block.

111 (b) A credit rating agency may decline to block or may rescind any
112 block of consumer information if the credit rating agency believes in
113 good faith that: (1) The information was blocked due to a
114 misrepresentation of fact by the consumer relevant to the request to
115 block under this section, (2) the consumer agrees that the blocked
116 information or portions of the blocked information were blocked in
117 error, (3) the consumer knowingly obtained possession of goods,
118 services or moneys as a result of the blocked transaction or
119 transactions or the consumer should have known that he or she
120 obtained possession of goods, services or moneys as a result of the
121 blocked transaction or transactions, (4) the information was blocked
122 due to fraud in which the consumer participated or of which the
123 consumer had knowledge, and which may for purposes of this section
124 be demonstrated by circumstantial evidence, or (5) the credit rating
125 agency, in the exercise of good faith and reasonable judgment, has
126 substantial reason based on specific, verifiable facts to doubt the
127 authenticity of the consumer's report of a violation of section 53a-129a
128 of the general statutes, revision of 1958, revised to January 1, 2003, or
129 section 2, 3 or 4 of this act.

130 (c) If the credit rating agency declines to block information or
131 rescinds the block of information pursuant to subsection (b) of this
132 section, the credit rating agency shall promptly notify the consumer in
133 the same manner as consumers are notified of the reinsertion of
134 information pursuant to subsection (b) of section 36a-699b of the
135 general statutes. The prior presence of the blocked information in the
136 credit rating agency's file on the consumer is not evidence of whether
137 the consumer knew or should have known that he or she obtained
138 possession of any goods, services or moneys.

139 (d) A credit rating agency shall accept the consumer's version of the
140 disputed information and correct the disputed item when the
141 consumer submits to the credit rating agency documentation obtained

142 from the source of the item in dispute or from public records
143 confirming that the report was inaccurate or incomplete, unless the
144 credit rating agency, in the exercise of good faith and reasonable
145 judgment, has substantial reason based on specific, verifiable facts to
146 doubt the authenticity of the documentation submitted and notifies the
147 consumer in writing of that decision, explaining its reasons for
148 unblocking the information and setting forth specific, verifiable facts
149 on which the decision is based.

150 (e) A credit rating agency shall delete from a credit report inquiries
151 for credit reports based upon credit requests that the credit rating
152 agency verifies were initiated as a result of a violation of section 53a-
153 129a of the general statutes, revision of 1958, revised to January 1, 2003,
154 or section 2, 3 or 4 of this act.

155 (f) The provisions of this section do not apply to: (1) A credit rating
156 agency that acts as a reseller of credit information by assembling and
157 merging information contained in the databases of other credit rating
158 agencies, and that does not maintain a permanent database of credit
159 information from which new credit reports are produced, (2) a check
160 services or fraud prevention services company that issues reports on
161 incidents of fraud or authorizations for the purpose of approving or
162 processing negotiable instruments, electronic funds transfers or similar
163 payment methods, or (3) a demand deposit account information
164 service company that issues reports regarding account closures due to
165 fraud, substantial overdrafts, automatic teller machine abuse or similar
166 negative information regarding a consumer to inquiring banks or other
167 financial institutions for use only in reviewing a consumer request for
168 a demand deposit account at the inquiring bank or financial
169 institution.

170 Sec. 10. (NEW) (*Effective October 1, 2003*) (a) If a person determines
171 that an application in such person's name for a loan, line of credit,
172 credit account, credit card, charge card, public utility service or
173 telecommunications service has been filed with any person, firm or
174 corporation by an unauthorized person, or that an account in such

175 person's name has been opened with a financial institution, public
176 utility or telecommunications service provider by an unauthorized
177 person, such person may request information related to the application
178 or account by submitting to the person, firm or corporation with which
179 the application was filed or the account was opened a copy of a police
180 report prepared pursuant to section 7 of this act and identifying
181 information in the categories of information that the unauthorized
182 person used to complete the application or to open the account. Upon
183 request by such person in whose name the application was filed or in
184 whose name the account was opened, such person, firm or corporation
185 shall inform such person of the categories of identifying information
186 that the unauthorized person used to complete the application or to
187 open the account. Not later than ten business days after receipt of such
188 person's request and submission of the copy of the police report and
189 identifying information, such person, firm or corporation shall,
190 without charge, provide such person, or a law enforcement officer
191 specified by such person, information related to the application or
192 account, including a copy of the unauthorized person's application or
193 application information, and a record of transactions or charges
194 associated with the application or account.

195 (b) Prior to providing information to a law enforcement officer
196 pursuant to subsection (a) of this section, the person, firm or
197 corporation may require the person who made the request for such
198 information to submit a signed and dated statement in which such
199 person: (1) Authorizes disclosure for a stated period; (2) specifies the
200 name of the agency or department to which the disclosure is
201 authorized; and (3) identifies the types of records that such person
202 authorizes to be disclosed. The statement shall contain a notice that
203 such person has the right at any time to revoke the authorization.

204 Sec. 11. Section 52-571h of the general statutes is repealed and the
205 following is substituted in lieu thereof (*Effective October 1, 2003*):

206 (a) Any person aggrieved by an act constituting a violation of
207 section 53a-129a of the general statutes, revision of 1958, revised to

208 January 1, 2003, or section 2, 3 or 4 of this act may bring a civil action in
209 the Superior Court for damages against the person who committed the
210 violation.

211 (b) In any civil action brought under this section in which the
212 plaintiff prevails, the court shall award the greater of one thousand
213 dollars or treble damages, together with costs and a reasonable
214 attorney's fee.

215 (c) No action under this section shall be brought but within two
216 years from the date when the violation first occurs or is discovered or
217 in the exercise of reasonable care should have been discovered.

218 Sec. 12. (NEW) (*Effective October 1, 2003*) (a) On and after January 1,
219 2005, no person, firm or corporation that accepts credit cards or debit
220 cards for the transaction of business may print on a receipt provided to
221 the cardholder (1) more than the last five digits of the credit card or
222 debit card account number, or (2) the expiration date of the credit card
223 or debit card.

224 (b) The provisions of subsection (a) of this section apply only to
225 receipts that are electronically printed and do not apply to transactions
226 in which the sole means of recording the cardholder's credit card or
227 debit card account number is by handwriting or by an imprint or copy
228 of the credit card or debit card.

229 Sec. 13. (NEW) (*Effective October 1, 2003*) (a) For the purposes of this
230 section:

231 (1) "Business" means an individual, association, corporation, general
232 or limited partnership, limited liability partnership, limited liability
233 company, statutory trust or other entity doing business in this state;

234 (2) "Records" means any material, regardless of the physical form,
235 on which information is recorded or preserved by any means,
236 including in written or spoken words, graphically depicted, printed or
237 electromagnetically transmitted, but does not include publicly
238 available directories containing information that an individual has

239 voluntarily consented to have publicly disseminated or listed, such as
240 name, address or telephone number;

241 (3) "Customer" means an individual who provides personal
242 information to a business for the purpose of purchasing, leasing or
243 obtaining goods or services from the business; and

244 (4) "Personal information" means any information that identifies,
245 relates to, describes or is capable of being associated with, a particular
246 individual, including, but not limited to, his or her name, signature,
247 Social Security number, physical characteristics or description,
248 address, telephone number, passport number, driver's license number,
249 insurance policy number, educational history, employment history,
250 bank account number, credit card number, debit card number and any
251 other financial information.

252 (b) A business shall take all reasonable steps to destroy, or arrange
253 for the destruction of, a customer's records within its custody or
254 control containing personal information that is no longer to be retained
255 by such business by (1) shredding, (2) erasing, or (3) otherwise
256 modifying the personal information in such records to make it
257 unreadable or undecipherable through any means.

258 (c) Any customer aggrieved by a violation of subsection (b) of this
259 section may bring a civil action in the Superior Court to enjoin further
260 violations and to recover the actual damages sustained by reason of
261 such violation, together with costs and a reasonable attorney's fee.

262 Sec. 14. (NEW) (*Effective October 1, 2003*) (a) On and after January 1,
263 2005, no person, firm or corporation shall:

264 (1) Publicly post or publicly display in any manner an individual's
265 Social Security number. For the purposes of this subdivision, "publicly
266 post" or "publicly display" means to intentionally communicate or
267 otherwise make available to the general public;

268 (2) Print an individual's Social Security number on any card
269 required for the individual to access products or services provided by

270 the person, firm or corporation;

271 (3) Require an individual to transmit such individual's Social
272 Security number over the Internet, unless the connection is secure or
273 the Social Security number is encrypted;

274 (4) Require an individual to use such individual's Social Security
275 number to access an Internet web site, unless a password or unique
276 personal identification number or other authentication device is also
277 required to access the Internet web site; or

278 (5) Print an individual's Social Security number on any materials
279 that are mailed to the individual, unless state or federal law requires
280 the Social Security number to be on the document to be mailed, except
281 that Social Security numbers may be included in applications and
282 forms sent by mail, including documents sent (A) as part of an
283 application or enrollment process, (B) to establish, amend or terminate
284 an account, contract or policy, or (C) to confirm the accuracy of the
285 Social Security number.

286 (b) A person, firm or corporation that has used, prior to January 1,
287 2005, an individual's Social Security number in a manner inconsistent
288 with subsection (a) of this section, may continue using that individual's
289 Social Security number in that manner on or after January 1, 2005, if
290 the following conditions are met:

291 (1) The use of the Social Security number is continuous, provided if
292 the use ceases for any reason, subsection (a) of this section shall apply;
293 and

294 (2) The individual is provided an annual disclosure, commencing
295 with calendar year 2005, that informs the individual that such
296 individual has the right to stop the use of such individual's Social
297 Security number in a manner prohibited by subsection (a) of this
298 section.

299 (c) A written request by an individual to stop the use of such
300 individual's Social Security number in a manner prohibited by

301 subsection (a) of this section shall be implemented not later than thirty
302 days after the receipt of the request. There shall be no fee or charge for
303 implementing the request. A person, firm or corporation shall not deny
304 services to an individual because the individual makes a written
305 request pursuant to this subsection.

306 (d) This section does not prevent the collection, use or release of a
307 Social Security number as required by state or federal law or the use of
308 a Social Security number for internal verification or administrative
309 purposes.

310 (e) This section does not apply to documents that are required to be
311 open to the public pursuant to the Freedom of Information Act.

312 Sec. 15. (*Effective October 1, 2003*) The Police Officer Standards and
313 Training Council shall evaluate the basic and review police training
314 programs conducted or administered by the council to determine if
315 such programs provide adequate and sufficient training on the subject
316 of identity theft. Not later than February 4, 2004, the council shall
317 report its findings and recommendations to the judiciary committee of
318 the General Assembly in accordance with section 11-4a of the general
319 statutes.

320 Sec. 16. Subsection (a) of section 53a-118 of the general statutes is
321 repealed and the following is substituted in lieu thereof (*Effective*
322 *October 1, 2003*):

323 (a) The following definitions are applicable to this part and sections
324 2, 3 and 4 of this act: (1) "Property" means any money, personal
325 property, real property, thing in action, evidence of debt or contract, or
326 article of value of any kind. Commodities of a public utility nature
327 such as gas, electricity, steam and water constitute property, but the
328 supplying of such a commodity to premises from an outside source by
329 means of wires, pipes, conduits or other equipment shall be deemed a
330 rendition of a service rather than a sale or delivery of property. (2)
331 "Obtain" includes, but is not limited to, the bringing about of a transfer
332 or purported transfer of property or of a legal interest therein, whether

333 to the obtainer or another. (3) To "deprive" another of property means
334 (A) to withhold it or cause it to be withheld from [him] such person
335 permanently or for so extended a period or under such circumstances
336 that the major portion of its economic value or benefit is lost to [him]
337 such person, or (B) to dispose of the property in such manner or under
338 such circumstances as to render it unlikely that an owner will recover
339 such property. (4) To "appropriate" property of another to oneself or a
340 third person means (A) to exercise control over it, or to aid a third
341 person to exercise control over it, permanently or for so extended a
342 period or under such circumstances as to acquire the major portion of
343 its economic value or benefit, or (B) to dispose of the property for the
344 benefit of oneself or a third person. (5) An "owner" means any person
345 who has a right to possession superior to that of a taker, obtainer or
346 withholder. (6) To "receive" means to acquire possession, control or
347 title, or to lend on the security of the property. (7) "Service" includes,
348 but is not limited to, labor, professional service, public utility and
349 transportation service, the supplying of hotel accommodations,
350 restaurant services, entertainment, and the supplying of equipment for
351 use. (8) "Check" means any check, draft or similar sight order for the
352 payment of money which is not postdated with respect to the time of
353 issuance. (9) "Drawer" of a check means a person whose name appears
354 thereon as the primary obligor, whether the actual signature be that of
355 himself or of a person purportedly authorized to draw the check in his
356 behalf. (10) "Representative drawer" means a person who signs a check
357 as drawer in a representative capacity or as agent of the person whose
358 name appears thereon as the principal drawer or obligor. (11) A person
359 "issues" a check when, as a drawer or representative drawer thereof,
360 [he] such person delivers it or causes it to be delivered to a person who
361 thereby acquires a right against the drawer with respect to such check.
362 One who draws a check with intent that it be so delivered is deemed to
363 have issued it if the delivery occurs. (12) A person "passes" a check
364 when, being a payee, holder or bearer of a check which previously has
365 been or purports to have been drawn and issued by another, [he] such
366 person delivers it, for a purpose other than collection, to a third person
367 who thereby acquires a right with respect thereto. (13) "Funds" means

368 money or credit. (14) A drawer has "insufficient funds" with a drawee
369 to cover a check when [he] such drawer has no funds or account
370 whatever, or funds in an amount less than that of the check; and a
371 check dishonored for "no account" shall also be deemed to have been
372 dishonored for "insufficient funds". (15) "Credit" means an
373 arrangement or understanding with a bank or depository for the
374 payment of a check, draft or order in full on presentation.

375 Sec. 17. Section 53a-121 of the general statutes is repealed and the
376 following is substituted in lieu thereof (*Effective October 1, 2003*):

377 (a) For the purposes of this part and sections 2, 3 and 4 of this act,
378 the value of property or services shall be ascertained as follows: (1)
379 Except as otherwise specified in this section, value means the market
380 value of the property or services at the time and place of the crime or,
381 if such cannot be satisfactorily ascertained, the cost of replacement of
382 the property or services within a reasonable time after the crime. (2)
383 Whether or not they have been issued or delivered, written
384 instruments, except those having a readily ascertainable market value
385 such as some public and corporate bonds and securities, shall be
386 evaluated as follows: (A) The value of an instrument constituting
387 evidence of debt, such as a check, draft or promissory note, shall be
388 deemed the amount due or collectible thereon, such figure ordinarily
389 being the face amount of the indebtedness less any portion thereof
390 which has been satisfied; (B) the value of any other instrument which
391 creates, releases, discharges or otherwise affects any valuable legal
392 right, privilege or obligation shall be deemed the greatest amount of
393 economic loss which the owner of the instrument might reasonably
394 suffer by virtue of the loss of the instrument. (3) When the value of
395 property or services cannot be satisfactorily ascertained pursuant to
396 the standards set forth in this section, its value shall be deemed to be
397 an amount less than fifty dollars.

398 (b) Amounts included in thefts committed pursuant to one scheme
399 or course of conduct, whether from the same person or several
400 persons, may be aggregated in determining the grade of the offense.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>
Sec. 8	<i>October 1, 2003</i>
Sec. 9	<i>October 1, 2003</i>
Sec. 10	<i>October 1, 2003</i>
Sec. 11	<i>October 1, 2003</i>
Sec. 12	<i>October 1, 2003</i>
Sec. 13	<i>October 1, 2003</i>
Sec. 14	<i>October 1, 2003</i>
Sec. 15	<i>October 1, 2003</i>
Sec. 16	<i>October 1, 2003</i>
Sec. 17	<i>October 1, 2003</i>

JUD *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Judicial Dept.; Correction, Dept.	GF - Cost	None	Potential
Judicial Dept.	GF - Revenue Gain	Less than 50,000	Less than 50,000
Police Officer Std. & Training Council	GF - None	None	None

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 04 \$	FY 05 \$
Municipal Police Departments	None	None	None

Explanation

The bill increases the penalty for identity theft based on the value of stolen property or services. This change would raise the maximum sentence from five to twenty years. It is anticipated that the increased penalty would apply to a substantial number of offenders since the average theft is \$17,000 - \$18,000, which qualifies as a class B felony under the bill.¹

In FY 02 there were 157 offenses under current law, resulting in 36 convictions. Seventeen offenders are under the custody of the Department of Correction for identity theft; eighty-five offenders are under court supervision as probationers. There were no fines imposed in FY 02, and therefore any revenue gain under the bill is expected to be minimal. The bill could double the number of persons incarcerated or under probation for identity theft by increasing sentence lengths. The average cost of incarceration is \$26,331 annually and the average

cost of probation would range from \$300 - \$1,000, depending upon the level of supervision required. The potential impact of the bill's new crime of trafficking in personal identifying information is expected to be minor given the total number of offenses for identity theft.

Section 7 of the bill establishes the procedures for reporting and processing identity theft crimes. Specifically, the bill allows a victim to file a complaint with the law enforcement agency in their own town regardless of where the actual theft occurred. It further provides that a law enforcement agency that has received an identity theft complaint must coordinate with other such agencies in its investigation. While the procedures outlined in the bill may result in a workload increase for state and local police, it is not anticipated that additional resources would be needed. The majority of the procedures described are within current practice.

Section 13 of the bill specifies that aggrieved customers may bring a civil action against any business that does not destroy personal information. This change is not expected to substantially alter the caseload of the Judicial Department's Civil Division. Consequently, there is no fiscal impact.

Section 15 requires the Police Officer Standards and Training Council to evaluate the adequacy of basic and review police training programs with respect to identity theft issues. Conducting such an evaluation and submitting findings and recommendations would not result in any fiscal impact to the state.

¹ A class B felony is punishable by a fine of up to \$15,000 and/or imprisonment of up to 20 years. Under current law, identity theft is a class D felony which provides for a fine of up to \$5,000 and/or imprisonment of up to 5 years.

OLR Bill Analysis

sSB 688

AN ACT CONCERNING IDENTITY THEFT**SUMMARY:**

This bill imposes graduated penalties for identity theft violations, establishes procedures to assist victims of the crimes, and requires businesses to revise certain practices to prevent the crimes. Specifically, the bill:

1. broadens the acts that constitute identity theft;
2. establishes three different classifications of the crime;
3. creates the crime of trafficking in personal identification information;
4. establishes a procedure for reporting and processing identity theft crimes and requires an evaluation of police officer training in this area;
5. authorizes courts to issue any orders necessary to correct false information in public records caused by identity theft crimes;
6. establishes a procedure for credit rating agencies to block and not report credit information resulting from such crimes;
7. prohibits businesses and people from printing more than the last five digits of a credit or debit account number on a consumer's receipt;
8. requires them to destroy customer records containing personal information that they no longer need;
9. establishes a two-year statute of limitations for civil damage actions against identity theft violators; and
10. with certain exceptions, prohibits individuals, firms, and

corporations from publicly disclosing Social Security numbers.

EFFECTIVE DATE: October 1, 2003

IDENTITY THEFT CRIMES

Crimes

By law, a person commits identity theft when he intentionally obtains, without permission, another person's personal identifying information and uses it for unlawful purposes. The bill specifies that use of the information to illegally obtain money or property is an unlawful purpose. It makes this offense third-degree identity theft, but leaves it classified as a class D felony, punishable by one to five years in prison, up to a \$2,000 fine, or both.

The bill makes it second-degree identity theft, a class C felony, to commit identity theft involving property or services valued at over \$5,000. The penalty is up to 10 years in prison, a \$10,000 fine, or both. It makes it first-degree identity theft, a class B felony, if the property or service involved is valued at over \$10,000. The penalty is up to 20 years in prison, a \$15,000 fine, or both.

Definitions

The bill broadens the definition of "personal identifying information" to include any name, number, or other information that may be used, alone or in conjunction with any other information, to identify a specific individual. It specifies that the information includes a person's date of birth; employer or taxpayer identification, alien registration, government passport, health insurance identification or debit card number; or unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation. Under current law, personal identifying information is limited to a driver's license, Social Security, employee identification, demand deposit, savings account, or credit card number; or someone's mother's maiden name.

The bill applies the definitions of "property" and "services" and the manner for determining their value that currently apply to larceny to identity theft. Under the larceny statute, "property" means any money, personal property, real property, evidence of a debt or

contract, or article of value of any kind. "Service" includes labor, professional service, public utility and transportation service, hotel accommodations, restaurant services, entertainment, and equipment supplied for use.

Property and services are generally valued at their fair market value at the time and place of the crime or, when fair market value cannot be ascertained, their replacement value within a reasonable time after the crime.

CRIME OF TRAFFICKING IN PERSONAL IDENTIFYING INFORMATION

The bill makes it a class D felony for anyone to sell, give, or otherwise transfer another person's personal identifying information to a third person knowing that the (1) information was obtained without the owner's authorization and (2) third person intends to use it for an unlawful purpose. The penalty for trafficking in personal identifying information is one to five years in prison, up to a \$2,000 fine, or both.

IDENTITY THEFT REPORTING, PROCESSING, AND TRAINING

The bill allows people who believe that they are identity theft victims to file a complaint of the suspected violation with the law enforcement agency in their town of residence. The agency must accept the complaint, prepare a police report, give the complainant a copy of the report, and investigate the allegation and any other related violations. Where necessary, the agency must coordinate investigations with other law enforcement agencies.

The bill also allows identity theft offenders to be arraigned in the superior court for the geographical area where the victim lives rather than in the court where either the crime was allegedly committed or the arrest was made.

Lastly, it requires the Police Officer Standards and Training Council to evaluate the basic and review police training programs it conducts or administers to determine if they provide adequate and sufficient training regarding identity theft. The council must report its findings and recommendations to the Judiciary Committee by February 4, 2004.

RECOURSE BY IDENTITY THEFT VICTIMS

Block Negative Credit Reports Resulting From Identity Theft

The bill allows people who believe that they are identity theft victims to ask a credit rating agency to block and not report information appearing on their credit report as a result of the crime. The consumer must submit the request in writing and include proof of identity and a copy of the police report of the crime. Within 30 days after receiving the request, the agency must stop reporting any information that resulted from the crime. The agency must also promptly notify the person or business that furnished the information of the police report and the effective date of the block.

Disputed Information. Credit rating agencies must accept consumers' versions of disputed information and correct the disputed item when they confirm that the report was inaccurate or incomplete unless the agencies, in good faith and using reasonable judgment, have substantial reason to doubt the documentation's authenticity and give the consumers written notice of that decision, explaining the reasons for unblocking the information with specific, verifiable facts. Consumers' confirmation of inaccuracy or incompleteness must come from documents held by the source of the item in dispute or public agencies.

Banking laws currently require credit rating agencies to correct misinformation their files and establish a procedure for investigating the accuracy of information (see BACKGROUND).

Declining to, or Rescinding a, Block. A credit rating agency may decline to block or rescind a block if it has a good faith belief that the consumer (1) misrepresented the facts in the request for a block; (2) agrees that information, or portions of it, was blocked in error; (3) knew or should have known that he received goods, services, or money as a result of blocked transactions; (4) knew of, or participated in, fraud to get the information blocked; or (5) lied about being a crime victim. The agency may demonstrate fraud by using circumstantial evidence. In addition to good faith, it must exercise reasonable judgment and have substantial reason, based on specific, verifiable facts, to doubt the authenticity of the consumer's police report alleging identity theft. The prior presence of blocked information in consumers' credit rating files cannot be used as evidence that they knew or should have known that they received goods, services, or money.

Credit rating agencies must promptly notify consumers of their decision not to block or to rescind a block on information. The notice must be given in the same way that the agencies notify consumers when information is reinserted into a report under existing law.

Credit Report Deletions. Credit rating agencies must delete from credit reports credit inquiries that the agencies verify were initiated as a result of consumers' status as identity theft victims.

Exceptions to Blocking. The blocking provisions do not apply to (1) credit rating agencies that assemble or merge credit information for resale and do not maintain a permanent database for producing new credit reports; (2) a check or fraud prevention services company that approves or processes negotiable instruments, electronic funds transfers, or similar payment methods; or (3) a demand deposit account information service company that tell banks or other financial institutions that ask about a potential customer's account closures due to fraud, substantial overdrafts, automatic teller machine abuse, or similar negative information.

Request Copies of Information Provided by Unauthorized People

The bill permits identity theft victims to request information that an unauthorized person used to apply for or acquire a loan, line of credit, credit account, credit card, charge card, or public utility or telecommunication service in the victim's name. The victim must submit a copy of the police report of the crime and identifying information of the type submitted by the unauthorized person. The person or business must tell the crime victim of the categories of information the unauthorized person submitted.

Not later than 10 business days after the request (with required accompanying information) is received, the person or business must, without charge, give the victim or a specified law enforcement officer application or account information and a record of transactions or charges associated with the application or account.

Before giving the information to a law enforcement officer, the person or business may require the victim to submit a signed and dated statement (1) authorizing the disclosure for a stated period, (2) specifying the officer's agency or department, and (3) identifying the types of records to be disclosed. The statement must contain the

victim's right to revoke the authorization at any time.

Civil Action for Damages

By law, victims of identity theft (third-degree identity theft under the bill) can bring a civil action for damages against their offender in Superior Court. The law requires courts to award prevailing plaintiffs with the greater of \$1,000 or treble damages, costs, and reasonable attorney's fees.

The bill extends the authority to sue to victims of first- and second-degree identity theft. It establishes a two-year statute of limitation for bringing the action. The limitation period starts from the date the violation first occurs, is discovered, or reasonably should have been discovered. (It is unclear whether the period starts with the earlier or later of these likely different dates.)

BUSINESS PRACTICES

Prohibition Against Account Numbers on Receipts

Beginning January 1, 2005, the bill prohibits businesses that accept credit or debit cards from printing more than the last five digits of the cards' account numbers or expiration dates on consumers' receipts. The prohibition applies only to electronic receipts and not to transactions solely recorded by handwriting or by imprinting the card.

Destruction of Records

The bill requires any entity doing business in the state, including statutory trusts, to take all reasonable steps to destroy or arrange for the destruction of consumer records with personal information within its custody or control and that it will no longer retain. The records must be shredded, erased, or otherwise modified to make the personal information unreadable or undecipherable.

Any customer aggrieved by a violation may bring a civil action in Superior Court to enjoin further violations and to recover actual damages, costs, and reasonable attorney's fees.

The bill defines "records" as any material on which information is recorded or preserved, except publicly available directories containing information that a person has voluntarily consented to have publicly

disseminated or listed, such as his name, address, or telephone number. It defines "personal information" as any information that identifies, relates to, describes, or is capable of being associated with a particular individual. Examples of personal information are physical characteristics or descriptions, educational or employment histories, and any financial information.

Prohibition Against Publicly Disclosing Social Security Numbers

With certain exceptions, the bill prohibits the public disclosure of Social Security numbers. The prohibition does not prevent the numbers from being (1) collected, used, or released as required by state or federal law or (2) used for internal verification or administrative purposes. The prohibition does not apply to documents subject to disclosure under the Freedom of Information Act.

Beginning January 1, 2005, the bill prohibits any person, firm, or corporation from:

1. intentionally communicating or otherwise making available to the general public an individual's Social Security number;
2. printing anyone's Social Security number on any card that the person must use to access the person or entity's products or services;
3. requiring anyone to transmit his Social Security number over the Internet, unless the connection is secure or the number is encrypted;
4. requiring anyone to use his Social Security number to access an Internet web site, unless a password or unique personal identification number or other authentication is also required to access it; or
5. printing anyone's Social Security number on materials that are mailed to him, unless state or federal law requires it. This prohibition does not apply to applications or forms sent by mail, including documents sent (a) as part of an application or enrollment process; (b) to establish, amend, or terminate an account, contract, or policy; or (c) to confirm the number's accuracy.

The bill allows any person, firm, or corporation that, prior to January 1, 2005, uses anyone's Social Security number in a manner inconsistent with the above-state prohibitions to continue using the number in that way after that date if:

1. the number is used continuously (once it is not, the prohibitions apply) and
2. the person whose number is disclosed is given an annual disclosure, beginning in calendar year 2005, that tells him of his right to stop his number from being used in any manner prohibited above.

An individual's written request to stop his number from being used in a prohibited manner must be implemented, free of charge, not later than 30 days after it is received. No one may be denied services because he made the request.

BACKGROUND

Disputed Information in Crediting Rating Files

Credit rating agencies must correct misinformation in their files. If consumers dispute the completeness or accuracy of any item in their files they can notify the agency in writing of the disputed information. Within five business days of receiving notice, the agency must provide notice of the dispute to everyone who provided any disputed information and notify consumers of receipt of their notice. Within 30 business days (or a total of 45 business days if an extension is granted) of receiving a consumer's notice the agency must complete its reinvestigation and notify the consumer of the results.

Notice of the agency's reinvestigation results must contain a statement that the reinvestigation is completed; a copy of the credit file showing the results; a notice of the consumers' rights to file a statement with the agency disputing the information's accuracy or completeness; notice that consumers may request the agency to disclose the company name, address, and phone number of each information source contacted during the reinvestigation; and notice of consumers' rights to request a revised credit report be sent to anyone who requested and received information within 12-months preceding the consumer's filing of the

notice of disputed information. If the agency fails to complete the reinvestigation and provide notice of its results within the appropriate time frame, it must delete the information.

If, after its reinvestigation, an agency determines that an item is inaccurate or cannot be verified, it must promptly delete that item. At the consumers' request, the agency must promptly notify, without charge, those recipients the consumers specifically designate if they received a credit report within 12 months of completion of the reinvestigation. The recipients must be notified that the information was deleted. The agency may reinsert such information in its files only if its source subsequently verifies its completeness and accuracy. In this case, the agency must notify consumers within five business days of reinserting the information.

If the agency determines, after the reinvestigation, that the information is accurate and complete, or that consumers did not provide sufficient information, it can retain the disputed information.

If the agency determines, after the reinvestigation, that an item is inaccurate or incomplete, but the agency can modify it so as to make it accurate and complete, it must do so promptly.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 41 Nay 0