

HOUSE BILL REPORT

HB 2456

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to identity crimes.

Brief Description: Increasing seriousness of identity crimes.

Sponsors: Representatives Cairnes, Ballasiotes, Koster, B. Chandler, Talcott, Radcliff, Pflug, Esser and Benson.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/26/00 [DP].

Brief Summary of Bill

- Increases the penalties for identity theft and criminal impersonation.
- Clarifies that the crime of criminal impersonation applies to the use of a "made-up" identity with the intent to commit a felony or third degree theft.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine and Koster.

Minority Report: Do not pass. Signed by 1 member: Representative Kagi.

Staff: Jean Ann Quinn (786-7310).

Background:

Identity Theft: In 1999, the Legislature passed legislation creating a new crime of "identity theft." A person is guilty of identity theft if he or she uses or transfers another person's means of identification with the intent to commit or aid any unlawful activity harming or intending to harm the person whose identity is used, or for

committing any felony. In addition to the criminal penalty, a person that violates this law is liable for \$500 or actual damages, including costs to repair the person's credit record, whichever is greater, and reasonable attorneys' fees. If the person committing identity theft is a business that repeatedly commits identity theft, that person also violates the Consumer Protection Act. The crime was established as class C felony, but because it was not assigned a seriousness level for the purposes of establishing a presumptive sentence range, the sentence may not include more than one year of confinement (unless an exceptional sentence is warranted).

Criminal Impersonation: A person commits the crime of criminal impersonation in the first degree in one of two ways: (1) by assuming a false identity, and doing some act using that false identity with the intent to defraud another person or for some other unlawful purpose; or (2) by pretending to be a representative of some person or organization or a public servant and doing some act in this pretend capacity with the intent to defraud another person. Criminal impersonation in the first degree is a gross misdemeanor. It appears there may be some overlap between this crime and the new crime of identity theft.

A person commits the crime of criminal impersonation in the second degree by claiming to be, or creating an impression that he or she is, a law enforcement officer, and doing some act with the intent to convey the impression that he or she is acting in an official capacity and a reasonable person would believe the person is a law enforcement officer. Criminal impersonation in the second degree is a misdemeanor.

Summary of Bill:

Identity Theft: Identity theft is ranked as seriousness level IV for the purposes of establishing a sentence range for the crime. This means that a person with no prior criminal history would receive a presumptive sentence range of three to nine months confinement. The confinement range then increases relative to the person's criminal history, up to a maximum of five years.

Criminal Impersonation: First degree criminal impersonation applies with respect to a person who assumes a "made-up" identity, not the identity of another person. (The latter is punishable under identity theft.) The person must do an act in his or her assumed character with the intent to commit a felony or third degree theft. The elements for committing the crime by pretending to be a representative of a person or organization are unchanged. First degree criminal impersonation is raised from a gross misdemeanor to a class C, level IV felony offense. Second degree criminal impersonation is raised from a misdemeanor to a gross misdemeanor offense.

Appropriation: None.

Fiscal Note: Requested on January 19, 2000.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Ranking the crime of identity theft is a positive change, and it could even be ranked higher. The bill also strengthens criminal impersonation, which continues to be a problem with people attempting to deceive elderly people by pretending to be someone they are not in an attempt to get money from them. If they don't actually succeed in stealing from these people, it can't be prosecuted as theft. Thus, it's appropriate to raise the penalties for criminal impersonation, which can be used to prosecute these perpetrators.

Testimony Against: None.

Testified: Larry Erickson, Washington Association of Sheriff and Police Chiefs.