

HOUSE BILL REPORT

HB 2009

As Reported by House Committee On:

Financial Institutions & Insurance

Title: An act relating to creation of an identity theft bureau.

Brief Description: Creating an identity theft bureau.

Sponsors: Representatives Cairnes, Bush and Roach.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 2/21/01, 2/27/01 [DPS].

Brief Summary of Substitute Bill

- An identity theft bureau is created within the Washington State Patrol.
- An identity theft division is created within the Office of the Attorney General.
- Law enforcement authorities are empowered to take legal action for the seizure and forfeiture of assets obtained via identity theft.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Benson, Republican Co-Chair; Hatfield, Democratic Co-Chair; Bush, Republican Vice Chair; McIntire, Democratic Vice Chair; Barlean, Cairnes, DeBolt, Keiser, Miloscia, Roach, Santos and Simpson.

Staff: Jean Ann Quinn (786-7310).

Background:

Three crimes are specifically identified as identity crimes in this state: (1) identity theft; (2) improperly obtaining financial information; and (3) soliciting undesired mail.

Identity theft, a class C felony, is defined as using or transferring 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. "Means of identification" means any information, not describing finances or credit, that is personal to or identifiable with an individual. Examples of information that constitute "means of identification" include: current or former name; telephone number; electronic address or identifier; social security number; driver's license number; tax identification number; and biometric data.

It is also a class C felony for a person to wrongfully obtain, attempt to obtain, or request another to obtain financial information from a financial information repository. A financial information repository is any person engaged in the business of providing services to customers who have a credit, deposit, trust, stock, or other financial account or relationship with the person. There are exceptions to this crime, such as for law enforcement and for agents of financial information repositories working in conjunction with law enforcement.

The misdemeanor crime of soliciting undesired mail is committed if a person knowingly uses a means of identification of another person to solicit undesired mail with the intent to annoy, harass, intimidate, torment, or embarrass that person.

In addition to the applicable criminal penalties, a person who commits any of these identity crimes is civilly liable for \$500 or actual damages, including costs to repair the person's credit record, whichever is greater, and reasonable attorneys' fees. Repeated violations by a business are also considered a violation of the Consumer Protection Act.

Summary of Substitute Bill:

An identity theft bureau is created within the Washington State Patrol, consisting of law enforcement officers, assistant attorneys general, and county prosecuting attorneys experienced in identity theft investigation and prosecution. The purpose of the bureau is to coordinate and assist in the investigation, apprehension, and prosecution of identity crime offenders.

An identity theft division is created within the Office of the Attorney General to: 1) Provide consumer education and information on issues related to identity theft; 2) provide technical assistance to businesses developing policies regarding the use of nonpublic personal information; and 3) to assist and coordinate with the identity theft bureau of the Washington State Patrol in the prosecution of identity theft crimes.

Following the conviction of the perpetrator of an identity crime, law enforcement authorities are empowered to bring legal proceedings for the seizure and forfeiture of property (and traceable proceeds of the property) acquired through the crime. The

proceeds of any forfeiture are to be distributed first to the victims in satisfaction of any restitution obligation and, second, to the Washington State Patrol for the operation of the identity theft bureau.

Substitute Bill Compared to Original Bill:

The identity theft bureau is moved to the Washington State Patrol, and an identity theft division is created in the Office of the Attorney General.

The substitute bill provides for the seizure and forfeiture of assets obtained via identity theft.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Original bill) This bill is about catching the crook and punishing the crook. There is no other way to solve this very serious crime. It doesn't require financial institutions to do anything extraordinary or require the release of any information to possibly inappropriate people. It doesn't require the victim to do their own investigation and build their own case.

It is intended that the bill will be amended to put the identity theft bureau under the control of the Washington State Patrol (WSP), instead of the Office of the Attorney General. This is a law enforcement issue, and the WSP has the infrastructure already in place to coordinate the investigation and successful prosecution of these crimes. The WSP has networks and contacts that enable them to work easily with law enforcement agencies nationally and even world-wide in the investigation of identity theft offenses.

Identity theft is growing rapidly and the consequences are devastating to its victims. The bill will give victims a published point of contact when a crime like this happens. Identity theft has many victims, including businesses which lose a great deal of money every year due to fraudulent identity theft. This results in increased consumer prices and ultimately affects everyone in the state. A RICO (Racketeer Influence and Corrupt Organizations Act) enforcement provision should be added to the bill to provide resources for the identity theft bureau to use to go after additional offenders.

(Concerns) Identity theft is a very complicated issue and there are no silver bullets. A task force is probably a very good idea, but there issues that must be worked through. We also must keep in mind that the people who are being pulled in to work on the task

force would then not be available to do other work.

(Neutral) This type of task force where the best and brightest are pulled in to work cooperatively to go after a problem works very well, and has been used quite successfully in combating other crimes, such as in the areas of narcotics, organized crime, and missing and exploited children

Testimony Against: None.

Testified: (In support) Representative Cairnes, prime sponsor; Bill Hanson, Washington Council of Police and Sheriffs; Jan Gee, Washington Retail Association; Cliff Finch, Association of Washington Business; and Cliff Webster, Associated Credit Bureaus.

(In support if amended) Rick Jensen, Washington State Patrol Troopers Association.

(With concerns) Elaine Rose, Office of the Attorney General.

(Neutral) Eric Robertson, Washington State Patrol.