

Legislative Analysis



IDENTITY THEFT PROTECTION

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Senate Bill 792 (Substitute S-2)
Sponsor: Sen. Michael Bishop

Senate Bill 793 (Substitute S-1)
Sponsor: Sen. Gerald Van Woerkom

Senate Committee: Judiciary
House Committee: Criminal Justice

Complete to 9-14-04

A SUMMARY OF SENATE BILLS 792 AND 793 AS PASSED BY THE SENATE

Senate Bill 792 would create the “Identify Theft Protection Act” to prohibit a person from: committing or attempting to commit identity theft; obtaining or possessing another’s personal identifying information with the intent to use it to commit identity theft or another unlawful act; selling or transferring another’s personal identifying information, knowing or having reason to know that the intended recipient would use the information for the purpose of committing identity theft or another unlawful act; or falsifying an identity theft victim certificate (issued under Senate Bill 794), or knowingly creating, possessing, or using a false certificate. A violation would be a felony punishable by up to five years’ imprisonment and/or a \$10,000 fine.

(“Identity theft” would mean any unauthorized use of another’s personal identifying information to obtain credit, goods, services, money, property, medical records or information, or employment, or to commit an unlawful act.)

The bill also would prohibit a person from: denying credit or public utility service solely because the consumer was a victim of identity theft; soliciting to extend credit to a consumer who did not have an existing line of credit, or had not had or applied for a line of credit within the preceding year, through the use of an unsolicited check that included certain personal identifying information; soliciting to extend credit to a consumer who did not have a current credit card, or had not had or applied for one within the preceding year, through the use of an unsolicited credit card; or extending credit to a consumer without exercising procedures to verify that consumer’s identity. A violation would be a misdemeanor punishable by up to 30 days’ imprisonment and/or a maximum fine of \$100.

The bill would create the Identity Theft Advisory Board consisting of the governor, the attorney general, the secretary of state, the Senate Majority Leader, and the Speaker of the House; or the designee of one of those individuals. The board would have to study data from identity theft cases in Michigan and annually report to the legislature any recommendations for statutory changes.

Senate Bill 793 (S-1) would amend the Code of Criminal Procedure to specify that a violation of the proposed Identity Theft Protection Act or a violation of law committed in furtherance of or arising from the same transaction as a violation of that Act, could be prosecuted in the jurisdiction in which the offense occurred, the jurisdiction in which the information used to commit the violation was illegally used, or the jurisdiction in which the victim lived. If a person were charged with more than one identity theft violation and those violations could be prosecuted in more than one jurisdiction, any of those jurisdictions would be a proper jurisdiction for all of the violations.

FISCAL IMPACT:

Senate Bill 792 would have an indeterminate impact on the state and local units of government; fiscal impact likely would be minimal, assuming that there was little change in the numbers of convictions or the types of sentences imposed for identity theft offenses. In 2001, there were seven felony convictions under the current identity theft law which carries the same maximum penalties (five years/\$10,000 fine) as those proposed by the bill under analogous provisions. Of those seven offenders, one offender was sentenced to state prison, five to probation, and one to jail. Costs of prison and felony probation fall to the state, while those of jail fall to the affected county. The Department of Corrections (MDOC) puts the annual cost of felony probation at \$1,820 per offender. Costs of prison incarceration depend on security level and vary widely between facilities; the MDOC reports the average annual cost per prisoner in FY 2003-04 to be \$28,455. Jail costs vary from county to county. Penal fine revenue is constitutionally dedicated to local libraries.

Senate Bill 793 would have no fiscal impact on the state, and an indeterminate fiscal impact on local units of government, depending on where violations were prosecuted.

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