

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1072
 SPONSOR: Criminal Justice Committee and Senator Crist
 SUBJECT: Criminal Use/Personal ID Information
 DATE: March 20, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Favorable/CS
2.	_____	_____	ACJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 1072 amends s. 817.568, F.S., to provide that it is a second degree felony with a mandatory minimum sentence of 3-years imprisonment, for a person to willfully and without authorization fraudulently use personal identification information concerning an individual without first obtaining that individual’s consent, if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud is \$5000 or more or if the person fraudulently uses the personal identification information of 10 or more individuals without their consent. Currently, the monetary amount that triggers this offense is \$75,000 or more.

If the amount is \$50,000 or more or if the person fraudulently uses the personal identification information of 20 or more individuals without their consent, it is a first degree felony. A mandatory sentence of 5 years applies if the amount is \$50,000 to less than \$100,000. A mandatory minimum sentence of 10 years applies if the amount is \$100,000 or more or if the person fraudulently uses the personal identification information of 30 or more individuals without their consent.

This CS substantially amends ss. 817.568 and 921.0022, F.S.

II. Present Situation:

A. Identity Theft: Description, Mode, Information Stolen

The Office of Statewide Prosecution (webpage) provides the following information regarding the offense of “identity theft” or “identity fraud.”

What is Identity Theft or Identity Fraud?

Identity theft or identity fraud (true name fraud) is the criminal act of taking a victim's identity for the purpose of obtaining credit, credit cards from banks and/or retailers, stealing money from the victim's existing accounts, applying for loans in the victim's name, establishing accounts with utility companies, leasing automobiles and residences, filing bankruptcy, and/or even obtaining employment. Identity thieves often steal thousands of dollars from unsuspecting victims, in the victim's own name, without the victim knowing about the fraud for months or sometimes years. Recently, identity thieves have used unsuspecting victim's identities to commit crimes ranging from traffic infractions to felonies.

How Does Identity Theft Occur?

All that is needed is a little information, such as your social security number, birth date, address, phone number, or any other information which can be discovered. Armed with this identifying information, and possibly a false driver's license with the identity thief's picture in place of yours, the identity thief can apply in person for instant credit, or through the mail by posing as you. Often, an identity thief will provide their own address, (claiming to have moved) in an effort to prolong the fraud. Negligent credit grantors, in their rush to issue credit, do not verify information or addresses. As such, once the imposter opens the first account, they can use this new account, along with the other identifying information, to bolster their credibility and obtain even more credit in your name. These criminal actions result in a proliferation of the fraud, and the thief is well on his/her way to getting rich and ruining your credit and good name.

Where Does the Information About You Come From?

Many places- your doctor, accountant, lawyer, dentist, school, place of employment, health insurance carrier, and many others have your identifying information. If some criminally minded person is employed at one of these places, (or is just visiting) and decides to use or steal this information to assume your identity, you would probably not find out about it until after the damage had been done. Further, if this information is not disposed of with a shredder, a "dumpster-diver" could retrieve the information, and assume your identity without ever having to enter any of the above-mentioned places. You should also be aware that you do not need to lose your wallet or have anything tangible stolen, in order for someone to steal your identity. By simply failing to shred your confidential information, utility bills, credit card slips and other documents, it is easy for an identity thief to "dumpster dive" your garbage, and retrieve your most personal identifying information. In addition, if an identity thief were to obtain your credit report illegally, they would have all the information necessary to become you. You should also know that much of your identifying information is readily available on the Internet, or even at your local courthouse, where it is accessible by the filing of a public records request.

B. Identity Theft National and Florida Statistics

The Federal Trade Commission reports national and state-specific data on the crime of identity theft, compiled from the Consumer Sentinel and Identity Theft Clearinghouse databases. *See National and State Trends in Fraud and Identity Theft/January-December 2002* (last updated January 1, 2003). The number one complaint received was identity theft (43 percent). *Id.* at p. 11. Florida had 80.2 identity theft complaints per 100,000 population (number of complaints: 12,816), which ranked it third in the nation (behind California and Texas). *Id.* Florida had 68.2 victims per 100,000 population (number of victims: 10,898), which ranked it fourth in the nation (behind California, Texas, and New York). *Id.*

Credit card fraud led the list of identity theft types reported in Florida complaints (48 percent or 5,188 complaints) (followed by phone or utilities fraud, bank fraud, loan fraud, government documents or benefits fraud, employment-related fraud, other, and attempted identity theft). *Id.*, at p. 22. The top Florida identity theft victim location was Miami (1,836 victims) (followed by Orlando, Tampa, Jacksonville, and Fort Lauderdale). *Id.*

C. Florida's Identity Theft Law

Section 817.568, F.S., punishes the crime of identity theft or identity fraud. There are several identity theft crimes in s. 817.568, F.S. The crime relevant to this analysis is set forth in s. 817.568(2)(b), F.S. This paragraph provides that it is a second degree felony for a person to willfully and without authorization fraudulently use personal identification information concerning an individual without first obtaining that individual's consent, if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud is \$75,000 or more. This offense is ranked in Level 5 of the offense severity ranking chart of the Criminal Punishment Code.

This offense is similar to an identity theft offense punishable under New Jersey law, in which the monetary amount that triggers the offense is \$75,000 or more. *See* N.J. Stat. Ann. § 2C:21-17.

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 1072 amends s. 817.568, F.S., to provide that it is a second degree felony with a mandatory minimum sentence of 3-years imprisonment, for a person to willfully and without authorization fraudulently use personal identification information concerning an individual without first obtaining that individual's consent, if the pecuniary benefit, the value of the services received, the payment sought to be avoided, or the amount of the injury or fraud is \$5000 or more or if the person fraudulently uses the personal identification information of 10 or more individuals without their consent. Currently, the monetary amount that triggers this offense is \$75,000 or more.

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person fraudulently uses the personal identification information of 30 or more individuals without their consent.

The CS also changes the definition of “personal identification information” to include a bank account or credit card number.

The CS also describes how mandatory sentencing under this section is to occur in relation to other specified penalty or sentencing laws.

The CS also amends s. 921.0022(3)(e), F.S., to correct the Criminal Punishment Code offense severity ranking chart to reflect changes to the second degree felony offense of criminal use of personal identification information.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

An impact analysis of CS/SB 1072 was not available at the time this analysis was completed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
