

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government / Promote Personal Responsibility- This bill provides criminal penalties for fraudulent use of personal identification information of a person 65 years of age or older.

B. EFFECT OF PROPOSED CHANGES:

Currently, s. 817.568, F.S., provides that, “[a]ny person who willfully and without authorization fraudulently uses, or possesses with intent to fraudulently use, personal identification information¹ concerning an individual without first obtaining that individual’s consent, commits” a third degree felony. This offense is commonly known as “identity theft”. This section also provides for enhanced penalties as follows:

- If the value of the pecuniary benefit, services received or injury is \$5,000 or more or if the person fraudulently uses the personal identification information of ten or more individuals without their consent, the offense is a second degree felony and the judge must impose a three year minimum mandatory term of imprisonment.
- If the value of the pecuniary benefit, services received or injury is \$50,000 or more or if the person uses the personal identification information of 20 or more individuals, the offense is a first degree felony and the judge must impose a five year minimum mandatory sentence.
- If the value of the pecuniary benefit, services received or injury is \$100,000 or more or if the person uses the personal identification information of 30 or more individuals, the offense is a first degree felony and the judge must impose of a ten year minimum mandatory sentence.

This section provides penalties for the offense of harassment² by use of personal identification information as well as using a public record to commit identity theft.³ Further, this section also provides penalties if identity theft is committed using the personal identification information of an individual less than eighteen years of age⁴ or an individual that is deceased.⁵

HB 1577 amends s. 817.568, F.S., to provide that it is a second degree felony⁶ for any person who willfully and without authorization fraudulently uses personal identification information concerning an individual who is 65 years of age or older without first obtaining consent of that individual or of his or her

¹ S. 817.568(f), F.S., defines “personal identification information” as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any: 1) Name, postal or electronic mail address, telephone number, social security number, date of birth, mother’s maiden name, official state-issued or United States-issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number, Medicaid or food stamp account number, bank account, credit or debit card number, or personal identification number or code assigned to the holder of a debit card by the issuer to permit authorized electronic use of such card; 2) Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation; 3) Unique electronic identification number, address, or routing code; 4) Medical records; 5) Telecommunication identifying information or access device; or 6) Other number or information that can be used to access a person’s financial resources.”

² The term “harass” means to engage in conduct directed at a specific person that is intended to cause substantial emotional distress to such person and serves no legitimate purpose. S. 817.568(1)(c), F.S.

³ S. 817.568(4) and (5), F.S.

⁴ S. 817.568(6) and (7), F.S.

⁵ S. 817.568(8), F.S.

⁶ Punishable by a term of imprisonment not to exceeding 15 years and a fine of \$10,000. ss. 775.082(3)(c) and 775.083(1)(b).

legal guardian. It further provides for second degree felony penalties for a person who is in the relationship of adult child or legal guardian, or who otherwise exercises custodial authority over an individual who is 65 years of age or older, who willfully and fraudulently uses personal identification information of that individual.

HB 1577 also amends the Criminal Punishment Code⁷ to reflect these offenses. As such, identity theft of individual who is 65 years of age or older without first obtaining consent is ranked level 8 on the offense severity ranking chart⁸, and identity theft of an individual who is 65 years of age or older, over which the offender has custodial authority is ranked level 9 on the offense severity ranking chart⁹.

C. SECTION DIRECTORY:

Section 1. Amends s. 817.568, F.S., relating to criminal use of personal identification information.

Section 2. Amends s. 921.0022, F.S., conforming cross-references.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Impact Conference met April 3, 2006 and concluded this bill would have an indeterminate, yet minimal, prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

⁷ S. 921.0022, F.S.

⁸ S. 921.0022(3)(h), F.S.

⁹ S. 921.0021(3)(i), F.S.

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES