

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1117 Personal Identification Information
SPONSOR(S): Safety & Security Council and Legg
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security & Public Safety</u>	<u>8 Y, 0 N</u>	<u>Kramer</u>	<u>Kramer</u>
2) <u>Safety & Security Council</u>	<u>13 Y, 2 N, As CS</u>	<u>Kramer</u>	<u>Havlicak</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u>Leznoff</u>	<u>Hansen</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Currently, s. 817.568, F.S., provides that, "any person who willfully and without authorization fraudulently uses, or possesses with intent to fraudulently use, personal identification information concerning an individual without first obtaining that individual's consent, commits" a third degree felony. This offense is commonly known as "identity theft". The section provides for enhanced penalties based on the amount of financial benefit to the offender or injury to the victim.

HB 1117 amends this section to provide that it is a first degree felony for any person to willfully and without authorization fraudulently use personal identification information concerning an individual who is 65 years of age or older without first obtaining the consent of that individual. The bill does not require proof that the offender knew that the victim was age 65 or older. The first degree felony offense will apply regardless of the amount of financial benefit to the offender or injury to the victim.

The Criminal Justice Impact Conference found the original version of the bill to have an impact to the prison population of 37 inmates in fiscal year 2007-08 and a cumulative total of 246 inmates by fiscal year 2011-12. The fiscal impact for fiscal year 2007-08 is \$6,918,097. The cumulative fiscal impact over five years is estimated at \$28,748,261. The council substitute has not been reviewed by the Criminal Justice Impact Conference; however, the proposed statutory changes which result in the need for additional prison beds remain unchanged.

This bill has an effective date of October 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill increases the felony level of an identity theft against committed against a person age 65 or older.

Promote personal responsibility: The bill makes it a first degree felony to commit identity theft of a person age 65 or older.

B. EFFECT OF PROPOSED CHANGES:

Currently, s. 817.568, F.S., provides that, "any 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.

Further, this section makes it a second degree felony for a person to commit identity theft of a person less than 18 years of age.²

HB 1117 amends s. 817.568, F.S., to provide that it is a first degree felony for any person to willfully and without authorization fraudulently use personal identification information concerning an individual who is 65 years of age or older without first obtaining the consent of that individual. The bill does not require proof that the offender knew that the victim was age 65 or older. The first degree felony offense will apply regardless of the amount of financial benefit to the offender or injury to the victim.

C. SECTION DIRECTORY:

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 S. 817.568(6) and (7), F.S.

Section 1. Amends s. 817.568, F.S., relating to identity theft.

Section 2. Provides effective date of October 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

On March 27, 2007, the Criminal Justice Impact Conference met to consider the prison bed impact of this bill on the Department of Corrections. Funding for construction of new prison beds has been historically provided three years in advance of the projected need (June 30, 2010 for the budget under consideration this session). The conference determined that the bill would result in an increase in the inmate population of 246 inmates by June 30, 2012.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See above.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

The sponsor of the bill did not submit a comment. The chair of the Safety & Security Council did not submit a comment regarding the council substitute.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

The Homeland Security & Public Safety Committee adopted an amendment which removed section 2 of the original bill which provided that any person who willfully possesses sensitive personal information concerning an individual without first obtaining that individual's consent commits a third degree felony. The Safety & Security Council reported the bill favorably as a council substitute.