



H.B. 284

123rd General Assembly
(As Introduced)

Reps. Salerno, Callender, Carey, Corbin, Damschroder, Hood, Hoops, Mottley, Netzley, O'Brien, Padgett, Patton, Pringle, Schuler, Schuring, Taylor, Thomas, Vesper, Willamowski, Winkler

BILL SUMMARY

- Prohibits a person from knowingly using specified identifying information of another living or dead person without the consent of the other person, the dead person's personal representative, or the dead person's immediate family and with the intent to obtain or use the other person's identity to cause financial loss to any person, to acquire anything of value for any person, or to violate specified laws.
- Prohibits a person from knowingly using specified identifying information of another living or dead person without the consent of the other person, the dead person's personal representative, or the dead person's immediate family and with the intent to make any person believe that the offender is the person that the offender claims to be.
- Enhances the penalties for violating the first prohibition if the offender commits specified other offenses in the same course of conduct as the violation or if the offender previously has been convicted of or pleaded guilty to committing those other offenses.

CONTENT AND OPERATION

Background and overview

In the activity commonly known as identity theft, an identity thief obtains identifying information of another person (the victim) and uses that information to engage in a number of activities, including obtaining credit cards and opening bank accounts under the name of the victim. Ohio law currently does not specifically prohibit identity theft, but several existing offenses prohibit some of

the behavior in which an identity thief may engage in the process of stealing a victim's identity. (See **COMMENT**.)

First prohibition

Prohibition

The bill prohibits a person from knowingly using specified identifying information (see "**Identifying information**," below) of another living or dead person without the consent of the other person, the dead person's personal representative, or the dead person's immediate family and with the intent to obtain or use the other person's identity to cause financial loss to any person, to acquire anything of value for any person, or to violate a section of the Revised Code, a municipal ordinance, a law of another state or a political subdivision of another state, or a law of the United States (sec. 2913.49(A)).

Penalty

A person who violates the first prohibition is guilty of taking the identity of another. Generally, a violation of the first prohibition is a felony of the fifth degree. (Sec. 2913.49(D)(1) and (2)(a).)

Unless the offender has previously been convicted of one or more specified offenses, if any person suffers a financial loss as a proximate result of the offense or if the offender acquires anything of value for any person, a violation of the first prohibition is one of the following: (1) a felony of the fourth degree if the value of the financial loss or the value of the thing acquired in the violation or course of conduct is \$5,000 or more and is less than \$100,000 or (2) a felony of the third degree if the value of the financial loss or the value of the thing acquired in the violation or course of conduct is \$100,000 or more. (Sec. 2913.49(D)(2)(b).)

If the violation of the first prohibition occurs as part of a course of conduct involving other violations of either prohibition proposed by the bill or involving the commission of, or attempts to commit, petty theft, theft, grand theft, grand theft of a motor vehicle, aggravated theft, theft of drugs, unauthorized use of property, unauthorized use of computer or telecommunication property, passing bad checks, misuse of credit cards, forgery, forging identification cards or selling or distributing forged identification cards, tampering with records, securing writings by deception, falsification, falsification in a theft offense, or falsification to purchase a firearm, the court, in determining the degree of the offense, may aggregate all credit, property, or services obtained or sought to be obtained by the offender and all debts or other legal obligations avoided or sought to be avoided by the offender in the violations involved in that course of conduct (sec. 2913.49(C)).

If the offender previously has been convicted of or pleaded guilty to one violation of taking the identity of another or petty theft, theft, grand theft, grand theft of a motor vehicle, aggravated theft, theft of drugs, unauthorized use of property, unauthorized use of computer or telecommunication property, passing bad checks, misuse of credit cards, forgery, forging identification cards or selling or distributing forged identification cards, tampering with records, securing writings by deception, falsification, falsification in a theft offense, or falsification to purchase a firearm, a violation of the first prohibition is a felony of the second degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of any of those offenses, a violation of the first prohibition is a felony of the first degree. (Sec. 2913.49(D)(2)(c).)

Second prohibition

Prohibition

The bill also prohibits a person from knowingly using specified identifying information (see "**Identifying information**," below) of another living or dead person without the consent of the other person, the dead person's personal representative, or the dead person's immediate family and with the intent to make any person believe that the offender is the person that the offender claims to be (sec. 2913.49(B)).

Penalty

A person who violates the second prohibition is guilty of taking the identity of another and is guilty of a felony of the fifth degree (sec. 2913.49(D)(1) and (3)).

Identifying information

The identifying information the use of which is regulated by the bill is the name, address, telephone number, driver's license, driver's license number, commercial driver's license, commercial driver's license number, state identification card, state identification card number, social security card, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, money market account number, mutual fund account number, other financial account number, personal identification number, password, or credit card number of a living or dead person (sec. 2913.49(A) and (B)).

COMMENT

Ohio law currently does not specifically prohibit identity theft but several existing offenses prohibit some of the behavior in which an identity thief may engage in the process of stealing a person's identity, including the offenses of falsification (sec. 2921.13), passing bad checks (sec. 2913.11), misuse of credit cards (sec. 2913.21), forgery (sec. 2913.31(A)), forging identification cards or selling or distributing forged identification cards (sec. 2913.31(B)), tampering with records (sec. 2913.42), and securing writings by deception (sec. 2913.43). It is unclear whether an ingenious identity thief could steal another's identity without committing any of these offenses.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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