



Am. S.B. 7

123rd General Assembly
(As Reported by H. Criminal Justice)

Sens. Oelslager, Brady, Cupp, Kearns, Latta, McLin, Mumper, Schafrath, Blessing, Herington, Gardner, Carnes, Watts, Spada, Drake, Hottinger, Johnson, Ray, Latell

Reps. Roman, Womer Benjamin, Callender, Buehrer, Goodman, Lucas, Logan, Taylor

BILL SUMMARY

- Creates the offense of taking the identity of another.

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. Typically, the identity thief promptly incurs a debt in the name of the victim. The victim then must prove that the victim does not owe the debts and must repair the victim's damaged credit history.

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.**)

New prohibitions--offense of taking the identity of another

The bill enacts two prohibitions that pertain to the taking of another person's identity. The first prohibition prohibits a person from obtaining, possessing, or using any "personal identifying information" (see "**Definitions**," below) of another with the intent to fraudulently obtain credit, property, or services or avoid the payment of a debt or other legal obligation. The second prohibits a person from creating, obtaining, possessing, or using the personal identifying information of another with the intent to aid or abet another person in violating the

bill's first prohibition, as described in the preceding sentence. (Sec. 2913.49(B) and (C).)

Penalty for a violation of the prohibitions

A violation of either of the prohibitions enacted in the bill is the offense of "taking the identity of another." Generally, the offense is a misdemeanor of the first degree. However, the offense is: (1) a felony of the fifth degree if the value of the credit, property, services, debt, or other legal obligation involved is \$500 or more and less than \$5,000, (2) a felony of the fourth degree if the value of the credit, property, services, debt, or other legal obligation involved is \$5,000 or more and less than \$100,000, and (3) a felony of the third degree if the value of the credit, property, services, debt, or other legal obligation involved is \$100,000 or more. (Sec. 2913.49(E).)

Determination of value involved of property, etc., involved in offense

The bill specifies that, in determining the degree of the offense as described in the preceding paragraph, the court may do either of the following, as applicable (sec. 2913.49(D)):

(1) In relation to violation of the first prohibition enacted in the bill, if the violation occurs as part of a course of conduct involving other violations of that prohibition or involving the commission of, complicity in committing, a conspiracy to commit, or an attempt to commit a violation of the second offense in the bill, petty theft, theft, grand theft, grand theft of a motor vehicle, aggravated theft, theft of drugs, unauthorized use of property, unauthorized use of computer property, passing bad checks, misuse of credit cards, forgery, tampering with records, securing writings by deception, falsification, falsification in a theft offense, or falsification to purchase a firearm, the court 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. The course of conduct may involve one victim or more than one victim.

(2) In relation to violation of the second prohibition enacted in the bill, if the violation occurs as part of a course of conduct involving other violations of that prohibition or involving the commission of, complicity in committing, a conspiracy to commit, or an attempt to commit the first prohibition enacted in the bill, petty theft, theft, grand theft, grand theft of a motor vehicle, aggravated theft, theft of drugs, unauthorized use of property, unauthorized use of computer property, passing bad checks, misuse of credit cards, forgery, tampering with records, securing writings by deception, falsification, falsification in a theft offense, or falsification to purchase a firearm, the court may aggregate all credit,

property, or services obtained or sought to be obtained by the person aided and abetted and all debts or other legal obligations avoided or sought to be avoided by the person aided and abetted in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.

Definitions

The bill provides that, as used in the above-described provisions, "personal identifying information" includes, but is not limited to, the following: 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 an individual (sec. 2913.49(A)).

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). Because of the diverse nature of identity theft, it appears possible that an ingenious identity thief could steal another's identity without committing any of these offenses.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-99	p. 26
Reported, S. Judiciary	02-17-99	p. 132
Passed Senate (33-0)	02-17-99	p. 136
Reported, H. Criminal Justice	04-21-99	p. 454

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