



H.B. 389

125th General Assembly
(As Introduced)

Rep. Hughes

BILL SUMMARY

- Enhances the penalty for identity fraud against an elderly person or disabled adult.
- Permits the Attorney General, in cooperation with a local law enforcement agency, to issue an identity fraud passport to a person who has filed a police report citing that the person is a victim of identity fraud in Ohio.

CONTENT AND OPERATION

Current law: offense of identity fraud

Prohibitions

The offense of identity fraud contains four prohibitions:

First prohibition. Current law prohibits a person, without the express or implied consent of the other person, from using, obtaining, or possessing any personal identifying information¹ of another person with intent to do either of the following (R.C. 2913.49(B)):

¹ "Personal identifying information" includes, but is not limited to, all of the following belonging to a living or dead individual: 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, birth certificate, 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 (R.C. 2913.49(A)).

(1) Hold the person out to be the other person;

(2) Represent the other person's personal identifying information as the person's own.

Second prohibition. A person is also prohibited from creating, obtaining, possessing, or using the personal identifying information of any person with the intent to aid or abet another person in violating the first prohibition (R.C. 2913.49(C)).

Third prohibition. Current law prohibits a person, with intent to defraud, from permitting another person to use the person's own personal identifying information (R.C. 2913.49(D)).

Fourth prohibition. A person who is permitted to use another person's personal identifying information (as described in the third prohibition) is prohibited from using, obtaining, or possessing the other person's personal identifying information with intent to defraud any person by holding the person out to be the other person or representing the other person's personal identifying information as the person's own (R.C. 2913.49(E)).

Penalty

Generally, identity fraud is a first degree misdemeanor. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is \$500 or more but less than \$5,000, identity fraud is a fourth degree felony. If the value is \$5,000 or more but less than \$100,000, it is a third degree felony. If the value is \$100,000 or more, it is a second degree felony.

The bill

Identity fraud against an elderly person or disabled adult

(R.C. 2913.49(I))

Under the bill, if the victim of a violation of one of the prohibitions described above is an elderly person or disabled adult, the offense is identity fraud against an elderly person or disabled adult, the penalty for which generally is one degree higher than for identity fraud.² Thus, identity fraud against an elderly

² "Elderly person" means a person who is age 65 or older (R.C. 2913.01(CC) not in the bill).

"Disabled adult" means a person who is age 18 or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative

person or disabled adult is generally a fifth degree felony. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is \$500 or more but less than \$5,000, the bill provides that identity fraud against an elderly person or disabled adult is a third degree felony. If the value is \$5,000 or more but less than \$100,000, the bill specifies that it is a second degree felony. If the value is \$100,000 or more, the bill provides that it is a first degree felony.

Identity fraud passport

(R.C. 2913.491)

The bill provides that once a person who is a victim of identity fraud in Ohio has filed a police report with a local law enforcement agency citing that the person is a victim of identity fraud, the victim is permitted to apply for an identity fraud passport through the local law enforcement agency (see **COMMENT** below). Under the bill, the agency must send a copy of the police report and the application for the passport to the Attorney General. The bill requires the Attorney General to process the application and supporting police report and permits the Attorney General to issue the victim an identity fraud passport. Although the bill allows the Attorney General to provide access to the applications and supporting documentation filed with the Attorney General's office to other criminal justice agencies in this or another state, the bill also specifies that those materials are not public records subject to inspection under the public records law.³

COMMENT

The bill gives no indication of the purpose of an identity fraud passport. It does not specify what rights are granted or duties imposed by issuance of the passport.

employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least 12 months without any present indication of recovery from the impairment, or who is age 18 or older and has been certified as permanently and totally disabled by an agency of this state or the United States that has the function of so classifying persons (R.C. 2913.01(DD) not in the bill).

³ *Ohio's public records law generally requires every "public office" to promptly prepare and make available for inspection all public records, at all reasonable times, during regular business hours (R.C. 149.43 not in the bill).*

HISTORY

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