



## ***Detailed Fiscal Analysis***

### **Provisions of the Bill**

The bill creates the offense of taking the identity of another. It prohibits the obtaining, possession, or use of any personal identifying information of another with the intent to:

- Fraudulently obtain credit, property, or services;
- Avoid the payment of a debt or legal obligation;
- Aid or abet another in doing the above.

The bill also permits prosecutors to aggregate the value of the credit, property, or services obtained or sought to be obtained in order to determine the degree of the offense.

The bill's penalty structure mirrors the penalties for theft and fraud, as shown in Table 1 below.

*Table 1*  
*Penalty Comparison of Existing and Proposed Offenses*

	<b>Dollar Amount of Loss</b>			
	Under \$500	\$500 to \$4,999	\$5,000 to \$100,000	\$100,000 or more
<b>Penalty under Existing Theft Statute</b>	<i>M1</i>	<i>F5</i>	<i>F4</i>	<i>F3</i>
<b>Penalty under Existing Fraud Statutes (O.R.C. 2913.45)</b>	<i>M1</i>	<i>F5</i>	<i>F4</i>	<i>F3</i>
<b>Penalty under Proposed Identity Theft Statute</b>	<i>M1</i>	<i>F5</i>	<i>F4</i>	<i>F3</i>
<b>Imprisonment Term</b>	Up to 6 months	6-12 months	6-18 months	1-5 years
<b>Fine Permitted</b>	Up to \$1,000	Up to \$2,500	Up to \$5,000	Up to \$10,000

### **Prevalence of Identity Theft**

Concrete estimates of the prevalence of identity theft are difficult, given that privacy concerns prohibit the major credit reporting agencies and the Federal Trade Commission from commenting in detail upon the scope of the offenses reported to them.

Given aggregate national estimates, it is, however, possible to arrive at a very rough estimate for the number of identity thefts experienced by Ohio residents in a given year. Two major credit reporting agencies provided different estimates of the number of identity fraud cases reported to them, which we have summarized below.

In 1997, Equifax reported receiving 1,200 calls per day, most coming from identity fraud victims. Assuming that there are approximately 254 business days per year, this indicates that there were 304,800 calls to Equifax nationally in 1997 (1,200 calls x 254 days = 304,800 calls). The U.S. Census estimates that the 1997 national population was 267,636,061, with Ohio's

population 11,186,331, or 4.2 percent of the national population. If it is assumed that identity theft calls are evenly distributed among all U.S. residents, then we can take 4.2 percent of the 304,800 identity theft calls in 1997 to arrive at an annual estimate of approximately 12,802 reported Ohio identity thefts to Equifax annually.

Trans-Union reported receiving 523,000 inquiries related to identity theft in 1997. According to 1997 U.S. Census estimates, Ohio represents 4.2 percent of the national population. If we take 4.2 percent of the 523,000 identity theft calls per year, it is estimated that there were approximately 21,966 reported identity theft calls to Trans-Union from Ohio residents in 1997.

These estimates of calls suggest that it is conceivable that Ohioans experience between 13,000 and 22,000 cases of identity theft annually. These numbers are consistent with estimates from the Cincinnati Police Department, which reports that they document a few hundred cases per year. According to U.S. Census data, Cincinnati represents 3.2 percent of Ohio's population. Cincinnati would therefore be expected to handle roughly 3.2 percent of Ohio's identity theft cases ( $13,000 \times .032 = 416$  and  $22,000 \times .032 = 704$ ). While this is a large number, it is LBO's assumption that a substantial proportion of these cases never ultimately result in arrest or prosecution, and that the majority of the cases that do result in arrest or prosecution are dealt with under existing fraud and theft statutes.

## **Fiscal Impact of the Bill**

Local Fiscal Effects. Based on discussions with police departments and county prosecutors, it is assumed that most identity theft cases are currently dealt with under existing fraud and theft statutes, for which the penalty structure is essentially the same as outlined in the bill. The explicit provisions of the bill may result in a few new arrests and cases brought to trial in municipal, county, and common pleas courts. A majority of the new cases are expected to land in common pleas court, because discussions with law enforcement have indicated that the majority of identity theft cases involve amounts over \$500.

A few cases may also be consolidated by virtue of law enforcement and prosecutors being permitted to aggregate the value of fraudulently obtained property. Under existing law and practice, the passing of multiple bad checks is treated as a series of smaller offenses, and the value of the checks is not aggregated. Under the bill, the value of the checks would be aggregated under a single charge, and would presumably utilize fewer resources to process.

State GRF. Under the bill, some offenders may be sent to state prison that would not have been otherwise. If that happens, the Department of Rehabilitation and Correction incurs additional GRF costs associated with that offender's incarceration and post-release supervision. However, as the number of offenders this would affect annually is estimated to be relatively small, any additional annual GRF expenses that might be incurred by the department will be minimal.

Crime Victim Reparations Fund. The locally collected, state court cost for a misdemeanor offense is \$9 and \$30 for a felony offense. These court costs are deposited to the credit of the Crime Victim Reparations Fund in the state treasury. The bill may produce a small number of persons convicted of a felony as opposed to a misdemeanor through the aggregation of the value of the credit, property, or services obtained or sought by the offender. This may result in a

negligible gain to the Fund. A few new cases may emerge, apart from those that are currently prosecuted as theft and fraud offenses, potentially resulting in a negligible gain in revenue to the Fund.

□ *LBO staff: Laura Bickle, Budget/Policy Analyst*

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