



Synopsis of Senate Committee Amendments^{*}

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Legislative Service Commission

Sub. H.B. 48

126th General Assembly
(S. Judiciary on Criminal Justice)

Increases, from a misdemeanor of the first degree to a felony of the fifth degree, the penalty for the offense of "identity fraud" when it is not committed in the circumstances constituting the offense of "identity fraud against an elderly person or disabled adult" under the House-passed version of the bill and when the enhanced penalties provided when the value of the credit, property, services, debt, or other legal obligation involved exceeds \$500 do not apply.

Makes the existing "law enforcement investigation affirmative defense" and the "lawful purpose affirmative defense" currently available for a person charged with certain prohibitions under the offense of "identity fraud" (or "identity fraud committed against an elderly person or disabled adult" under the bill) available to a person charged with any of the prohibitions under that offense.

Modifies the existing "law enforcement investigation affirmative defense" available for a person charged under the offense of "identity fraud" (or "identity fraud committed against an elderly person or disabled adult" under the bill) by providing that it is available only when the person or entity using, obtaining, possessing, or creating the personal identifying information or permitting it to be used is a law enforcement agency, authorized fraud personnel, or a representative of or attorney for such an agency or personnel and is using, obtaining, possessing, or creating the information or permitting it to be used, with prior consent, in a bona fide investigation, an information security evaluation, a pretext calling evaluation, or a similar matter, and by requiring that the specified prior consent must be given by the person whose personal identifying information is being used, obtained, possessed, or created or is being permitted to be used or, if that person is deceased, by the deceased person's executor, or a member of the deceased person's family, or the deceased person's attorney.

Modifies the existing "lawful purpose affirmative defense" available for a person charged under the offense of "identity fraud" (or "identity fraud committed against an elderly person or disabled adult" under the bill) by providing that it is not available if the

^{*} This synopsis does not address amendments that may have been adopted on the Senate floor.

person or entity using, obtaining, possessing, or creating the personal identifying information or permitting it to be used is a law enforcement agency, authorized fraud personnel, or a representative or attorney for such an agency or personnel that is using, obtaining, possessing, or creating the personal identifying information or permitting it to be used in an investigation, an information security evaluation, a pretext calling evaluation, or a similar matter.

Regarding the Identity Fraud Passport provisions of the House-passed version of the bill, requires the Attorney General to maintain statistics with respect to the number of applications for identity fraud passports submitted, and the number of identity fraud passports issued, pursuant to those provisions and to submit a statistical report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives indicating the number of applications for identity fraud passports submitted, and the number of identity fraud passports issued, in the previous fiscal year; specifies that nothing in the statistics maintained or the report submitted may identify, or enable the identification of, any individual who applied for, was issued, or was denied an identity fraud passport; and specifies that the statistics and the report are public records for the purpose of the Public Records Law.

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