

HOUSE BILL ANALYSIS

HB 2456

Brief Description: Increasing seriousness of identity crimes.

Sponsors: Representatives Cairnes and Ballasiotes.

Hearing: January 26, 2000

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

BACKGROUND:

Identity Theft: In 1999, the Legislature passed legislation creating a new crime of "identity theft." A person is guilty of identity theft if he or she uses or transfers another person's means of identification with the intent to commit or aid any unlawful activity harming or intending to harm the person whose identity is used, or for committing any felony. In addition to the criminal penalty, a person that violates this law is liable for \$500 or actual damages, including costs to repair the person's credit record, whichever is greater, and reasonable attorneys' fees. If the person committing identity theft is a business that repeatedly commits identity theft, that person also violates the Consumer Protection Act. The crime was established as class C felony, but because it was not assigned a seriousness level for the purposes of establishing a presumptive sentence range, the sentence may not include more than one year of confinement.

Criminal Impersonation: A person commits the crime of criminal impersonation in the first degree in one of two ways: (1) by assuming a false identity, and doing some act using that false identity with the intent to defraud another person or for some other unlawful purpose; or (2) by pretending to be a representative of some person or organization or a public servant and doing some act in this pretend capacity with the intent to defraud another person. Criminal impersonation in the first degree is a gross misdemeanor. It appears there may be some overlap between this crime and the new crime of identity theft.

A person commits the crime of criminal impersonation in the second degree by claiming to be, or creating an impression that he or she is, a law enforcement officer, and doing some act with the intent to convey the impression that he or she is acting in an official capacity and a reasonable person would believe the person is a law enforcement officer. Criminal impersonation in the second degree is a misdemeanor.

SUMMARY OF BILL:

Identity Theft: Identity theft is ranked as seriousness level IV for the purposes of establishing a sentence range for the crime. This means that a person with no prior criminal history would receive a presumptive sentence range of three to nine months confinement. The confinement range then increases relative to the person's criminal history, up to a maximum of five years.

Criminal Impersonation: First degree criminal impersonation applies with respect to a person who assumes a "made-up" identity, not the identity of another person. (The later is punishable under identity theft.) The person must do an act in his or her assumed character with the intent to commit a felony or third degree theft. The elements for committing the crime by pretending to be a representative of a person or organization is unchanged. First degree criminal impersonation is raised from a gross misdemeanor to a class C, level IV felony offense. Second degree impersonation is raised from a misdemeanor to a gross misdemeanor offense.

FISCAL NOTE: Requested on January 19, 2000.

EFFECTIVE DATE: Ninety days after adjournment of a session in which bill is passed.