

SENATE BILL REPORT

SHB 1250

As Reported By Senate Committee On:
Commerce, Trade, Housing & Financial Institutions, April 1, 1999

Title: An act relating to protecting the privacy of financial information.

Brief Description: Protecting the privacy of financial information.

Sponsors: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives McIntire, Keiser, Sullivan, Santos, Benson, Hatfield, Quall, Barlean, Hurst, Dunshee, Bush, Constantine, Dickerson, Rockefeller, O'Brien and Kenney).

Brief History:

Committee Activity: Commerce, Trade, Housing & Financial Institutions: 3/23/99, 4/1/99 [DPA].

SENATE COMMITTEE ON COMMERCE, TRADE, HOUSING & FINANCIAL INSTITUTIONS

Majority Report: Do pass as amended.

Signed by Senators Shin, Vice Chair; Benton, Deccio, Gardner, Hale, Heavey, Rasmussen, T. Sheldon, West and Winsley.

Staff: Susan Jones (786-7784)

Background: There are several crimes related to financial services or information. The crime of theft of an access device is second degree theft and is a class C felony. Factoring of a credit card transaction with the intent to commit fraud or theft against a cardholder, credit card issuer, or financial institution which causes damages of more than \$1,000 is a class C felony. Criminal impersonation in the first degree is a gross misdemeanor where a person assumes a false identity and does an act in the assumed character with the intent to defraud another or for any unlawful purpose.

Summary of Amended Bill: Obtaining or attempting to obtain, or causing disclosure or attempting to cause disclosure of financial information by certain means from a financial repository is a class C felony. Exceptions are made for law enforcement and agents of financial information repositories working with law enforcement. A financial repository is any person engaged in the business of providing services to customers who have credit, deposit, trust, stock or other financial account or relationship with the person. In addition to the criminal sanction for a class C felony, the person is liable for the greater of \$500 or actual damages and reasonable attorney's fees.

Identity theft is knowingly using or knowingly transferring a means of identification of another person with the intent to commit, or to aid or abet, any unlawful activity harming or intending to harm the person whose identity is used, or for committing a felony. Identity

theft is a class C felony. Violators are liable for the greater of \$500 or actual damages, including costs to repair the person's credit record, and reasonable attorney's fees.

The crime of identity theft is included in the definition of criminal profiteering for purposes of the crime of leading organized crime, which is a class A felony.

If a business repeatedly violates either of these laws, it is considered a violation of the Consumer Protection Act.

Amended Bill Compared to Substitute Bill: The crime of identity theft is included in the definition of criminal profiteering for purposes of the crime of leading organized crime, which is a class A felony.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect on January 1, 2000.

Testimony For: The bill tightens protections on improperly obtaining financial information and makes identity theft a crime. If checks or credit cards are stolen and used and the person is made whole by the bank or credit card company, the person is not considered the victim under state law even though his or her financial life is harmed. Because identity theft is usually a piecemeal crime with small checks written, the police may not want to get involved. Even if the bank account is closed, the merchants do not know why the check is not honored and may send the person to collection. Financial lives can be ruined by identity theft.

Testimony Against: None.

Testified: PRO: Representative McIntire, Eileen Strauss, fraud victim.