

SENATE BILL REPORT

ESHB 1844

As Reported By Senate Committee On:
Financial Services, Insurance & Housing, April 4, 2003

Title: An act relating to possession of instruments or equipment of financial fraud.

Brief Description: Criminalizing possession of instruments or equipment of financial fraud.

Sponsors: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke, Benson, Simpson, Morrell, McIntire, Mielke, Hudgins, Rockefeller and Bush).

Brief History:

Committee Activity: Financial Services, Insurance & Housing: 4/3/03, 4/4/03 [DP].

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Majority Report: Do pass.

Signed by Senators Benton, Chair; Keiser, Prentice, Roach and Zarelli.

Staff: Joanne Conrad (786-7472)

Background: Modern technology allows criminals to produce credible checks, credit cards and identification. While acts committed with these fraudulent documents are already statutory crimes, manufacturing and possession are not. It is believed by many in the law enforcement and corporate security professions that the production and possession of payment instruments and the equipment and software used to produce the instruments of financial fraud should be crimes in their own right.

Summary of Bill: Overview: Five new financial fraud crimes pertaining to the use, possession, or production of payment instruments, identification, or devices used to produce fraudulent documents are created. Exemptions are created for the legitimate practices of financial institutions and other entities occurring in the usual course of business. Statutory definitions are added with respect to new terminology introduced in the descriptions of these offenses. Several of these crimes are added to the list of predicate offenses that can give rise to prosecution under the Criminal Profiteering Act.

Unlawful production of payment instruments: It is a crime to print or otherwise produce a check or other payment instrument that includes either the name, routing number, or account number of another person without the consent of that person (class C felony).

Unlawful possession of payment instruments: It is unlawful to possess, with the requisite criminal intent, two or more payment instruments in the name of a person, or which contain the routing or account number of a person, absent the permission of that person. Such possession is also prohibited if the named person, routing number, or account number is fictitious (class C felony).

Unlawful possession of a personal identification device: It is unlawful to possess, with the requisite criminal intent, any device whose purpose is to manufacture or print any driver's license, identification card, credit/debit card, or badge (class C felony).

Unlawful possession of fictitious identification: It is unlawful to possess, with the requisite criminal intent, an identification card in the name of a fictitious person (class C felony).

Unlawful possession of instruments of financial fraud: It is unlawful to knowingly possess check making equipment or software with the intent to perpetrate a crime involving financial fraud (class C felony).

Unlawful possession of another's identification: It is unlawful to possess identification in the name of another person unless one has the permission of that person (gross misdemeanor).

Jurisdiction: When the prosecution of any of the offenses created by the bill relates to the offense of identity theft, the jurisdiction may be either the place of the victim's residence or the locality in which any part of the offense took place.

Criminal Profiteering Act: The five felony offenses created by the bill constitute criminal profiteering and are subject to the remedies available under the Criminal Profiteering Act.

Ranking of seriousness level: The class C felonies created by the bill are ranked in the sentencing guidelines as seriousness level I. This ranking is considered in conjunction with an offender's criminal history in order to determine the appropriate sentence.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed, except for Section 8, which takes effect July 1, 2004.

Testimony For: This bill provides reasonably modified criminal law sanctions, to protect businesses.

Testimony Against: None.

Testified: Representative Schual-Berke, prime sponsor.