

SENATE BILL REPORT

SB 5878

As Amended in House, March 4, 2008

Title: An act relating to identity theft.

Brief Description: Concerning the filing of police incident reports for victims of identity theft.

Sponsors: Senators Hargrove, Kline, Eide, Marr, Shin, Jacobsen, Kohl-Welles, Rasmussen and Keiser.

Brief History:

Committee Activity: Judiciary: 2/13/07, 2/28/07 [DP].

Passed Senate: 2/11/08, 46-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, Murray, Roach and Weinstein.

Staff: Lidia Mori (786-7755)

Background: In order for a victim of identity theft to exercise certain state and federal rights, it is necessary for the victim to have a police incident report. RCW 19.182.162 requires a consumer who claims to be a victim of identity theft to have a copy of a police report filed by the consumer in order to obtain a block of a fraudulent entry on his or her credit report. By law, identity theft victims must have police reports to freeze their credit, to place long term fraud alerts on credit reports, and to obtain records of fraudulent accounts from merchants. A nationwide survey conducted by the Federal Trade Commission shows that in 2005, 19 percent of the people surveyed said police would not take their report of identity theft. Seven states, exclusive of Washington, have pending legislation to mandate the taking of identity theft reports and 15 states have the law in place.

Summary of Bill: A person who believes his or her financial information or means of identification has been illegally obtained, used, or disclosed to another to commit, aid or abet a crime, may file an incident report with a law enforcement agency that has jurisdiction over the victim's residence, place of business, or the place where the crime occurred. The law enforcement agency is directed to create a police incident report and provide the complainant with a copy of the report. The agency is authorized to refer the report to another law enforcement agency. Investigation of a report claiming identity theft is not mandated under this act and an incident report is not required to be counted as an open case for statistical purposes.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: If victims can't make an incident report, it prevents them from taking advantage of a number of civil rights, like obtaining a block of their credit report. In 2003, 24 percent of identity theft victims said they couldn't get the police to take their incident reports. There is confusion as to who should take the report and this bill makes it clear. No city or county wants these cases to be counted as open cases if the crime occurred in another jurisdiction.

Persons Testifying: PRO: Susan Storey, Law Enforcement Group Against Identity Theft; Don Pierce, Washington Association of Sheriffs and Police Chiefs.

House Amendment(s): Clarifies that the relevant unit of prosecution for identity theft is an unlawful use of a means of identification or financial information. A defendant may be prosecuted and punished separately for every instance the defendant unlawfully obtains, possesses, transfers, or uses the means of identification or financial information, unless the instances constitute the same criminal conduct. Whenever any series of transactions involving a single person's identification or financial information would, when considered separately, constitute identity theft in the second degree because of value, and the series of transactions are part of a common scheme or plan, the transactions may be aggregated for purposes of determining the degree of identity theft involved. If a person commits another crime during the commission of identity theft, the defendant may be prosecuted and punished separately for the other crime as well as for the identity theft.