

SENATE BILL REPORT

SB 6074

As Reported by Senate Committee On:
Law & Justice, January 16, 2020
Ways & Means, February 10, 2020

Title: An act relating to reauthorizing and expanding the financial fraud and identity theft crimes investigation and prosecution program.

Brief Description: Reauthorizing and expanding the financial fraud and identity theft crimes investigation and prosecution program.

Sponsors: Senators Dhingra, Rivers, Padden, Mullet, Van De Wege, Randall, Salomon, Keiser, Conway, Pedersen, Kuderer, Das and Stanford.

Brief History:

Committee Activity: Law & Justice: 1/14/20, 1/16/20 [DPS-WM].
Ways & Means: 1/30/20, 2/10/20 [DPS (LAW), w/oRec].

Brief Summary of First Substitute Bill

- Continues the Financial Fraud and Identity Theft Crimes Investigation and Prosecution Program until July 1, 2030.
- Increases the surcharge on Uniform Commercial Code filings at the Department of Licensing used to fund the program from \$10 per filing to \$15 per filing until July 1, 2030.
- Requires the program to include information about its use of funds and funding needs in its annual report to the Governor and Legislature.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6074 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

Staff: Melissa Burke-Cain (786-7755)

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.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Billig, Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Liias, Muzzall, Pedersen, Rivers, Van De Wege and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Becker, Schoesler, Warnick and Wilson, L..

Staff: Corban Nemeth (786-7736)

Background: Estimated Frequency of Fraud and Identity Theft in the United States. The frequency of financial fraud and identity theft (FFIT) continues to rise across the nation. The Federal Trade Commission (FTC) compiles consumer complaints related to fraud and identity theft from a number of sources through its Consumer Sentinel Network and publishes a yearly report on the rate of consumer fraud, identity theft, and other consumer complaints in 29 categories.

The FTC's 2018 Consumer Sentinel Network report shows, in the aggregate, that fraud and identity theft complaints increased over 2017 levels. The report identifies fraud complaints as the single largest category of complaints. Of nearly 3 million reports, 1.4 million or about 48 percent of all reports were fraud complaints. Imposter scams produced the highest number of fraud complaints. Identity theft, the second largest category, amounted to approximately 15 percent of the complaints in the reporting year. Credit card theft produced the highest number of identity theft complaints.

The FTC's 2018 report also ranks the number of complaints by state and by metropolitan statistical area. Among states, Washington ranked 25th for fraud complaints at 582 complaints per 100,000 population. Washington ranked 23rd for identity theft complaints at 100 reports per 100,000 population.

The Financial Fraud and Identity Theft Crimes Investigation and Prosecution Program. In 2008, the Legislature created the Financial Fraud and Identity Theft Crime Investigation and Prosecution Program to improve the state's capacity to respond to FFIT crimes. Initially, the program was slated to end in 2015, but the Legislature extended the program to 2020. The Department of Commerce administers the program and provides an annual progress report to the Legislature that includes, among other information, statistics on investigations conducted, crimes charged, convictions obtained for FFIT crimes, recommendations for operational improvements, and the two task forces' recommendations for improved response to FFIT crimes.

The two regional task forces operating within the program are the Greater Puget Sound Task Force covering King, Pierce, and Snohomish counties, and the Spokane County Task Force. Each task force includes representatives from local law enforcement; county prosecutors; the state Attorney General's Office; financial institutions; and other state, local, and federal law

enforcement and investigative agencies. The FFIT crimes that are the program's focus include check fraud, chronic unlawful issuance of bank checks, embezzlement, credit and debit card fraud, identity theft, forgery, counterfeit checks and documents, organized counterfeit check rings, and organized identification theft rings. The task forces' work emphasizes large, complex, and multi-jurisdictional investigations and prosecutions.

The task forces meet regularly and share information about key suspects, crime trends, and investigations. The task forces direct funds for law enforcement investigation, and forensic analysis, and for prosecutorial staff for FFIT cases.

The program receives funding from a statutory surcharge on UCC-1 filings at the Department of Licensing (DOL). The surcharge funds are transferred by DOL into a dedicated account for the program. In 2015, the Legislature set the surcharge at \$10 per filing. Under current law, the program and surcharge expire on July 1, 2020.

Summary of Bill (First Substitute): The program is extended until July 1, 2030. Additionally, until July 1, 2030, the surcharge on certain Uniform Commercial Code filings at DOL increase from the current \$10 surcharge to \$15 per filing. DOL deposits the surcharges in a dedicated account created to fund the program. The program must include information about the use of funds and its funding needs in its annual report to the Governor and Legislature to facilitate biennial reviews of the program's funding.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Extends the Financial Fraud and Identity Theft Investigation and Prosecution Program until July 1, 2030 and extends the \$15 surcharge on UCC filings until 2030.
- Requires the program's annual report to the Governor and Legislature to include information about the program's use of funding and funding needs to facilitate a biennial review of the program's funding.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill (Law & Justice): *The committee recommended a different version of the bill than what was heard.* PRO: Most of us know someone who has been a victim of identity theft or financial fraud. These crimes continue to increase and many involve older persons or vulnerable adults who are targeted by increasingly sophisticated criminals. The FFIT program is credited with numbers of cases and convictions that far exceed the program's performance goals. The FFIT crimes that are the two task forces' focus are not run-of-the-mill property crimes. These are prolific offenders whose crimes cross jurisdictional boundaries. The task forces are not limited to prosecutors and law enforcement representatives. The business community, banking

community, and AARP all support this work. The program is funded by a flat fee and up to now it is reviewed in five-year increments to make sure it is adjusted when necessary. It is easier to get business support with regular review of the fee and a chance to weigh in on the program's continued effectiveness. The teamwork inherent in the program allows crime analysts to connect the dots, so that one comprehensive case of multiple felony charges against a prolific offender can go forward rather than a diffuse number of individual crimes in multiple jurisdictions. The cases and criminals are getting more sophisticated all the time. It is a great benefit for the task force members to work together throughout the region. One representative case involved crimes in four counties and three states. In addition to investigation and prosecution, the task forces provide free training for prosecutors, law enforcement, and banking employees. The banking association has supported each extension of the program. In other places, many of the fraud and identity crimes are never prosecuted. Washington's solution works.

Persons Testifying (Law & Justice): PRO: Senator Manka Dhingra, Prime Sponsor; Joanna Grist, AARP; Patrick Hinds, Deputy Prosecuting Attorney, Greater Puget Sounds Financial Fraud and Identity Theft Task Force; Shaya Calvo, Deputy Prosecuting Attorney, Greater Puget Sounds Financial Fraud and Identity Theft Task Force; Brittany Gregory, Deputy Legislative Director, Attorney General's Office; Trent House, Washington Bankers Association.

Persons Signed In To Testify But Not Testifying (Law & Justice): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: This program has longstanding industry support, and is fee supported, so there is no general fund impact. The value that the banking industry receives from this program exceeds the cost of the fees paid.

Persons Testifying (Ways & Means): PRO: Senator Manka Dhingra, Prime Sponsor; Trent House, Washington Bankers Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.