HB 818

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 818 (Delegate Lee, *et al.*)
Judiciary Judicial Proceedings

Task Force to Study Identity Theft

This bill establishes a task force to study problems associated with identity theft in Maryland and privacy laws in other states. The task force must also consult with relevant federal agencies, agencies in other states, and identity theft experts and complete a survey of State agencies to determine compliance with State and federal laws relating to the collection and use of Social Security numbers. Findings and recommendations for possible remedies to identity theft must be submitted to the General Assembly by December 31, 2006. The Department of Legislative Services will provide staff to the task force.

The bill is effective July 1, 2005 and terminates on January 31, 2007.

Fiscal Summary

State Effect: Any expense reimbursements for task force members are assumed to be minimal and absorbable with existing resources. General fund expenditures increase $20,000 in FY 2006 only to meet the survey requirement, otherwise, staffing could be provided within existing resources.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	$0	$0	$0	$0	$0
GF Expenditure	20,000	0	0	0	0
Net Effect	($20,000)	$0	$0	$0	$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal. The bill calls for three local representatives to serve on the task force.

Small Business Effect: Minimal.

Analysis

Current Law: A person may not knowingly, willfully, and with fraudulent intent possess, obtain, or help another to possess or obtain any individual's personal identifying information, without the consent of that individual, to use, sell, or transfer the information to get a benefit, credit, good, service, or other thing of value in the name of that individual. A person may not knowingly and willfully assume the identity of another to avoid identification, apprehension, or prosecution for a crime or with fraudulent intent to get a benefit, credit, good, service, or other thing of value or to avoid the payment of debts or other legal obligations.

A person who violates this identity fraud prohibition is guilty of a felony and is subject to imprisonment not exceeding five years, a fine not exceeding $25,000, or both, if the benefit, credit, good, service, or other thing that is the subject of the crime is valued at $500 or more. If the benefit or other thing has a value of less than $500, then the violator is guilty of a misdemeanor and is subject to imprisonment for up to 18 months, a maximum fine of $5,000, or both.

If circumstances reasonably indicate that a person's intent was to manufacture, distribute, or dispense another individual's personal identifying information without the individual's consent, the violator is guilty of a felony and is subject to imprisonment for up to five years, a maximum fine of $25,000, or both.

A person who knowingly and willfully assumes the identity of another to avoid identification, apprehension, or prosecution for a crime is guilty of a misdemeanor and subject to imprisonment for up to 18 months, a maximum fine of $5,000, or both.

If a violation is committed pursuant to a scheme or continuing course of conduct, the conduct may be considered one offense. The value of goods or services may be combined to determine whether the violation is a felony or misdemeanor.

A violator of any of these prohibitions is also subject to a court order for restitution and paying costs related to restoring a victim's identity.

Law enforcement officers may operate without regard to jurisdictional boundaries to investigate identity fraud provisions, within specified limitations. The authority may be exercised only if an act related to the crime was committed in the jurisdiction of an investigative agency or a complaining witness resides in an investigating agency's jurisdiction. Notification of an investigation must be made to appropriate law enforcement personnel.

Background: Identity theft is commonly regarded as one of the fastest growing crimes in the United States. Thieves employ a variety of methods, including looking through dumpsters, watching people enter passwords, and "phishing" for personal information, over the telephone or via the Internet to siphon off the value of a person's good name and credit.

In September 2003, the Federal Trade Commission (FTC) released an *Identity Theft Survey Report*. From March through April of 2003, 4,057 adults were surveyed nationwide to determine the magnitude and impact of identity theft. A total of 4.6% of survey respondents indicated they were the victims of identity theft between 2002 and 2003. Extrapolation of this survey result suggested that 9.9 million Americans are victimized by identity theft annually. When asked about the last five years, 12.7% of the survey respondents indicated that they were the victims of identity theft involving setting up new accounts, misuse of existing credit cards, or misuse of savings or checking accounts. Extrapolation of these survey results suggested that as many as 27 million Americans may have been victims of identity theft over the last five years.

The Identity Theft Data Clearinghouse, sponsored by FTC and Consumer Sentinel, a consortium of national and international law enforcement and private security entities, released *National and State Trends in Fraud and Identity Theft* for calendar 2004. The FTC received 246,570 identity theft consumer complaints in 2004. There were 214,905 identity theft reports in 2003.

According to the FTC, in calendar 2004 Maryland was ranked thirteenth out of 50 states for identity theft, with 83 victims per 100,000 population and 4,612 identity theft victims. In calendar 2003, Maryland was ranked eleventh for identity theft with 764.9 victims per 100,000 population and 4,124 identity theft victims. The most common type of identity theft in Maryland was credit card fraud, occurring to 1,482 or 32% of victims. Phone or utilities fraud occurred in 21% of reported cases and bank fraud occurred in 17% of reported cases. The areas of Maryland that contained the highest reports of identity theft were Baltimore, Silver Spring, Laurel, Columbia, and Rockville. In a comparison of 49 major metropolitan areas, the Washington Metropolitan area ranked eighteenth for identity fraud complaints with 5,142 reported victims and a crime incidence of 107.1 per 100,000 population. The Baltimore Metropolitan area ranked thirtieth with 2,142 reported victims and a crime incidence of 83.9 per 100,000 population.

All 50 states and the District of Columbia have provisions relating to identity theft. The federal Identity Theft and Assumption Deterrence Act of 1998 made it a federal crime to knowingly transfer or use the means of identification of another person with the intent to commit a violation of federal law or a felony under any state or local law. The federal Fair and Accurate Credit Transactions Act of 2003 provides additional deterrence to identity theft, but also contains preemptions of state authority relating to enforcement of identity theft provisions enacted after 2003.

State Expenditures: General fund expenditures could increase $20,000 in fiscal 2006 only in the Department of Legislative Services for the development and completion of the survey required by the bill. Otherwise, staffing requirements could be met with existing resources.

Additional Information

Prior Introductions: This bill is a reintroduction of SB 325/HB 191 from the 2004 session. SB 325 was referred to the Judicial Proceedings Committee, where it received an unfavorable report. HB 191, as amended, passed the House, and received an unfavorable report from the Judicial Proceedings Committee.

Cross File: None designated, although SB 43 is identical.

Information Source(s): Federal Trade Commission, National Consumer Law Center, Identity Theft Resource Center, National Consumers League, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2005
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