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## FISCAL IMPACT REPORT

SPONSOR: Russell DATE TYPED: 03/03/01 HB 317/aHBIC  
 SHORT TITLE: Theft of Identity SB \_\_\_\_\_  
 ANALYST: Rael

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		See Narrative			

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to: HB 347

### SOURCES OF INFORMATION

Attorney General’s Office (AGO)  
 Administrative Office of the Courts (AOC)  
 Public Defender (PD)  
 Administrative Office of the District Attorneys (AODA)

### SUMMARY

#### Synopsis of House Business and Industry Committee Amendment

The amendment simply deletes the alternative requirement of intent to injure. This appears to be only a minor technical clean-up.

#### Synopsis of Original Bill

The Theft of Identity bill prohibits willfully obtaining, recording or transferring personal identifying information of another person and using that information with the intent to injure or defraud that person.

This bill prescribes the following penalties:

- Whoever commits theft of identity when there is no direct financial impact on the person who did not authorize use of personal identifying information is guilty of a petty misdemeanor.
- Whoever commits theft of identity to obtain money, credit, goods, services or anything of value and the value is \$250 or less is guilty of a misdemeanor.
- Whoever commits theft of identity when there is a financial impact greater than \$250 but not more than \$2,500 is guilty of a fourth degree felony.

## House Bill 317/aHBIC -- Page 2

- Whoever commits theft of identity when there is a financial impact greater than \$2,500 but not more than \$20,000 is guilty of a third degree felony.
- Whoever commits theft of identity when there is a financial impact greater than \$20,000 is guilty of a second degree felony.

A defendant may be prosecuted in the county of the victim's residence or in the county in which any part of the offense took place, regardless of whether the defendant was actually present in the county.

Restitution may be awarded and the court may order that public records be corrected as a result of the theft of identity.

### **FISCAL IMPLICATIONS**

See Administrative Implications.

### **ADMINISTRATIVE IMPLICATIONS**

It will cost the judicial system \$400 for statewide update, distribution, and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions. The increased workload would include not only initial case processing and judicial time, but also tracking cases to completion, including probation and compliance with other conditions of release. New laws, amendments to existing laws, and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

### **OTHER SUBSTANTIVE ISSUES**

The First Judicial District Attorney's Office receives numerous complaints, particularly from the elderly, regarding theft of identity. Additionally, the Attorney General's Consumer Division reports that identity theft is a major concern among consumers. The District Attorney reports that some crimes can be charged under current law (such as theft of a credit card) many have not been charged because there is no current statute under which to charge these offenses.

The Public Defender reports that Sections D, E, F, & G all punish stealing money, a crime that is already covered by numerous statutes: Theft of Credit Card and related credit card crimes (30-16-25 - 33); Embezzlement (30-16-8); Extortion (30-16-9); Forgery (30-16-10); Fraud (30-16-6); Receiving Stolen Property (30-16-11), etc. Prosecutions will inevitably raise issues of double jeopardy and merger.

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