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BILL ANALYSIS

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House Bill 6169 (Substitute H-1 as passed by the House)
House Bill 6172 (as passed by the House)
Sponsor: Representative William Van Regenmorter (H.B. 6169)
Representative Matt Milosch (H.B. 6172)
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 10-4-04

CONTENT

House Bills 6169 (H-1) and 6172 would amend the Code of Criminal Procedure to include identity theft violations in the sentencing guidelines and extend the period of limitations for filing identity theft charges when evidence was obtained but the identity of the offender was not known. The bills would take effect on March 1, 2005.

House Bill 6169 (H-1)

The bill would include in the sentencing guidelines both identity theft and obtaining, possessing, selling, or transferring another person's personal identifying information or falsifying a police report with intent to commit identity theft. Each offense would be categorized as a Class E felony against the public order, with a statutory maximum penalty of five years' imprisonment. (The violations are included in the "Identity Theft Protection Act", proposed by Senate Bill 792 and House Bill 6168.)

The bill also would delete from the sentencing guidelines the offense of obtaining personal information without authorization (which the Identity Theft Protection Act would repeal). That offense is a Class E property felony, with a statutory maximum penalty of five years' imprisonment.

House Bill 6172

The bill would extend the period of limitations for identity theft or attempted identity theft, when evidence was obtained and the individual who committed the offense had not been identified. ("Identity theft" would mean conduct prohibited under the proposed Identity Theft Protection Act or the offense of obtaining personal information without authorization).

Under the Code of Criminal Procedure, an indictment must be found and filed within six years after an offense is committed (except as provided for particular offenses). The bill specifies that an indictment for identity theft or attempted identity theft could be found and filed within six years after the offense was committed. If evidence of an identity theft violation were obtained and the individual who committed the offense had not been identified, however, an indictment could be found and filed at any time after the offense was committed, but not more than six years after the individual was identified. ("Identified" would mean that the individual's legal name was known.)

The bill also specifies that this extension or tolling of the limitations period would apply to any of the violations for which the limitations period had not expired at the time the extension or tolling took effect.

MCL 777.14h & 777.16o (H.B. 6169)
767.24 (H.B. 6172)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 6169 (H-1)

The bill would have an indeterminate fiscal impact on State and local government. The proposed felonies of identity theft and obtaining, possessing, selling, or transferring another person's personal identifying information or falsifying a police report with intent to commit identity theft, would replace the existing felony of obtaining personal identification information without authorization and with intent to use the information unlawfully. According to the Department of Corrections Statistical Report, in 2001 seven people were convicted of that offense. Of those, one offender received incarceration in a State prison, one received incarceration in a local jail, and five received probation. Local units pay for incarceration in local facilities, the cost of which varies by county. The State incurs the cost of felony probation at an average annual cost of \$1,800, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000. If one assumes that the number of offenders and types of sentences received for the proposed offenses would be similar to those for the existing offense, the change would have no fiscal impact.

House Bill 6172

The bill would have an indeterminate fiscal impact on State and local government. By extending the period to file an indictment to six years after the identification of an offender, the bill could increase local court costs and both local and State corrections costs to the extent that it would allow additional identity theft cases to be prosecuted.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.