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BILL ANALYSIS

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House Bill 6173 (Substitute H-1 as passed by the House)

House Bill 6174 (as passed by the House)

Sponsor: Representative John Stakoe (H.B. 6173)

Representative Mike Nofs (H.B. 6174)

House Committee: Criminal Justice

Senate Committee: Judiciary

Date Completed: 11-9-04

CONTENT

House Bills 6173 (H-1) and 6174 would amend the Crime Victim's Rights Act and the Michigan Consumer Protection Act, respectively, to provide that identify theft victims would be entitled to file and obtain a police report, and to include identity theft as an illegal trade practice.

House Bill 6173 (H-1)

The bill specifies that, to facilitate compliance with Federal law (15 USC 1681g), a bona fide victim of identity theft would be entitled to file a police report with a law enforcement agency in a jurisdiction where the alleged violation could be prosecuted as provided under MCL 762.10c (a section of the Code of Criminal Procedure proposed by Senate Bill 793) and to obtain a copy of that report from that law enforcement agency. The bill would insert the same language in each of the Act's three articles. Article I deals with felonies, Article II involves juvenile offenses, and Article III applies to serious misdemeanors.

(Under 15 USC 1681g, every consumer reporting agency, upon request, must clearly and accurately disclose certain information to consumers. This includes information in the consumer's file at the time of the request, the sources of the information, identification of each consumer who procured a consumer report, and a record of all inquiries received by the agency during the one-year period preceding the request that identified the consumer in connection with a credit or insurance transaction but was not initiated by the consumer.

Under Senate Bill 793, identity theft could be prosecuted in the jurisdiction in which the offense occurred, in which the information used to commit the violation was illegally used, or in which the victim lived.)

House Bill 6174

The bill would include a violation of Section 11 of the "Identity Theft Protection Act" (proposed by Senate Bill 792 and House Bill 6168) in the Michigan Consumer Protection Act's list of unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce. The Act provides that those unfair, unconscionable, or deceptive methods, acts, or practices are unlawful.

(Section 11 of the proposed Act would prohibit a person from doing various things related to extending or soliciting to extend credit to certain consumers, or denying credit or a public utility service solely because the consumer was an identity theft victim.)

Proposed MCL 780.754a et al. (H.B. 6173)
MCL 445.903 (H.B. 6174)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 6173 (H-1)

The bill would have no fiscal impact on State or local government.

House Bill 6174

The bill would have an indeterminate impact on the Department of Attorney General related to the Attorney General's responsibilities under the Michigan Consumer Protection Act. The number of additional cases that would result from the bill cannot be projected.

Fiscal Analyst: Bruce Baker
Bill Bowerman

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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.