

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 1768-01  
BILL NO.: SB 538  
SUBJECT: CRIMES AND PUNISHMENT; CONSUMER PROTECTION  
TYPE: ORIGINAL  
DATE: MARCH 3, 2003

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FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
GENERAL REVENUE	(LESS THAN \$100,000)	(LESS THAN \$100,000)	(LESS THAN \$100,000)
TOTAL ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(LESS THAN \$100,000)	(LESS THAN \$100,000)	(LESS THAN \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
NONE			

TOTAL ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
	\$0	\$0	\$0

NUMBERS WITHIN PARENTHESES: ( ) INDICATE COSTS OR LOSSES.  
 THIS FISCAL NOTE CONTAINS 8 PAGES.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
NONE			
TOTAL ESTIMATED NET EFFECT ON <u>ALL</u> FEDERAL FUNDS	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
LOCAL GOVERNMENT	\$0	\$0	\$0

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FISCAL ANALYSIS

ASSUMPTION

OFFICIALS FROM THE DEPARTMENT OF ECONOMIC DEVELOPMENT, DEPARTMENT OF PUBLIC SAFETY, AND THE DEPARTMENT OF INSURANCE ASSUME THE PROPOSED LEGISLATION WOULD HAVE NO FISCAL IMPACT ON THEIR AGENCIES.

OFFICIALS FROM THE OFFICE OF ATTORNEY GENERAL ASSUME COSTS CAN BE ABSORBED IN HANDLING ANY CRIMINAL APPEALS BROUGHT PURSUANT TO THIS SECTION.

OFFICIALS FROM THE OFFICE OF STATE COURTS ADMINISTRATOR (CTS) ASSUME THERE MAY BE AN INCREASE IN THE NUMBER OF CASES FILED, BUT CTS WOULD NOT EXPECT IT TO SIGNIFICANTLY IMPACT THE WORKLOAD OF THE COURTS.

OFFICIALS FROM THE OFFICE OF STATE PUBLIC DEFENDER ASSUME EXISTING STAFF COULD PROVIDE REPRESENTATION FOR THOSE FEW CASES ARISING WHERE INDIGENT PERSONS WERE CHARGED WITH IDENTITY THEFT. PASSAGE OF MORE THAN ONE BILL INCREASING PENALTIES ON EXISTING CRIMES OR CREATING NEW CRIMES WOULD REQUIRE THE STATE PUBLIC DEFENDER SYSTEM TO REQUEST INCREASED APPROPRIATIONS TO COVER THE CUMULATIVE COST OF REPRESENTING INDIGENT PERSONS ACCUSED IN THE NOW MORE SERIOUS CASES OR IN THE NEW ADDITIONAL CASES.

ASSUMPTION (CONTINUED)

OFFICIALS FROM THE OFFICE OF PROSECUTION SERVICES ASSUME PROSECUTORS COULD ABSORB THE COSTS OF THE PROPOSED LEGISLATION WITHIN EXISTING RESOURCES.

OFFICIALS FROM THE DEPARTMENT OF CORRECTIONS (DOC) ASSUME THE BILL ADDS A NEW SECTION RELATING TO IDENTITY CRIMES. PENALTY PROVISIONS, THE COMPONENT OF THE BILL TO HAVE

POTENTIAL FISCAL IMPACT FOR THE DOC, IS FOR A CLASS C FELONY.

THE DOC CANNOT CURRENTLY PREDICT THE NUMBER OF NEW COMMITMENTS WHICH MAY RESULT FROM THE CREATION OF THE OFFENSE(S) OUTLINED IN THIS PROPOSAL. AN INCREASE IN COMMITMENTS DEPENDS ON THE UTILIZATION BY PROSECUTORS AND THE ACTUAL SENTENCES IMPOSED BY THE COURT. THE PROBABILITY EXISTS THAT OFFENDERS COULD ALREADY BE CRIMINALLY CHARGED UNDER EXISTING STATUTE, BUT THIS NEW LANGUAGE MAY MAKE IT EASIER TO PROSECUTE AND/OR CONVICT. SINCE 2000, THERE HAVE BEEN 5 OFFENDERS IN THE DOC WITH IDENTITY THEFT CHARGES. THIS TRANSLATES INTO AN ANNUAL RATE OF 1.67 INDIVIDUALS PER YEAR. THE AVERAGE TIME SERVED FOR A CLASS C FELONY IS 15 MONTHS. FROM INDICATIONS OF POTENTIAL FUTURE TRENDS, IDENTITY THEFT IS A GROWING AREA OF CRIME.

IF ADDITIONAL PERSONS ARE SENTENCED TO THE CUSTODY OF THE DOC DUE TO THE PROVISIONS OF THIS LEGISLATION, THE DOC WILL INCUR A CORRESPONDING INCREASE IN OPERATIONAL COST EITHER THROUGH INCARCERATION (FY02 AVERAGE OF \$35.52 PER INMATE, PER DAY OR AN ANNUAL COST OF \$12,965 PER INMATE) OR THROUGH SUPERVISION PROVIDED BY THE BOARD OF PROBATION AND PAROLE (FY02 AVERAGE OF \$3.10 PER OFFENDER, PER DAY OR AN ANNUAL COST OF \$1,132 PER OFFENDER).

AT THIS TIME, THE DOC IS UNABLE TO DETERMINE THE NUMBER OF PEOPLE WHO WOULD BE CONVICTED UNDER THE PROVISIONS OF THIS BILL AND THEREFORE THE NUMBER OF ADDITIONAL INMATE BEDS THAT MAY BE REQUIRED AS A CONSEQUENCE OF PASSAGE OF THIS PROPOSAL. ESTIMATED CONSTRUCTION COST FOR ONE NEW MEDIUM TO MAXIMUM-SECURITY INMATE BED IS \$55,000. UTILIZING THIS PER-BED COST PROVIDES FOR A CONSERVATIVE ESTIMATE BY THE DOC, AS FACILITY START-UP COSTS ARE NOT INCLUDED AND ENTIRE FACILITIES AND/OR HOUSING UNITS WOULD HAVE TO BE CONSTRUCTED TO COVER THE COST OF HOUSING NEW COMMITMENTS RESULTING FROM THE CUMULATIVE EFFECT OF

VARIOUS NEW LEGISLATION, IF ADOPTED AS STATUTE.

IN SUMMARY, SUPERVISION BY THE DOC THROUGH PROBATION OR INCARCERATION WOULD RESULT IN ADDITIONAL UNKNOWN COSTS TO THE DEPARTMENT. EIGHT (8) PERSONS WOULD HAVE TO BE INCARCERATED PER FISCAL YEAR TO EXCEED \$100,000 ANNUALLY. IT IS ASSUMED THE IMPACT WOULD BE LESS THAN \$100,000 PER YEAR FOR THE DOC FOR THE THREE YEARS OF THIS FISCAL NOTE PERIOD, BUT THE LONG-RANGE IMPACT IS UNKNOWN.

<u>FISCAL IMPACT - STATE</u>	FY 2004	FY 2005	FY 2006
<u>GOVERNMENT</u>	(10 MO.)		
GENERAL REVENUE FUND			

COSTS – DEPARTMENT OF  
CORRECTIONS

	(LESS THAN	(LESS THAN	(LESS THAN
INCARCERATION/PROBATION COSTS	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>

ESTIMATED NET EFFECT ON	(LESS THAN	(LESS THAN	(LESS THAN
GENERAL REVENUE FUND	<u>\$100,000)</u>	<u>\$100,000)</u>	<u>\$100,000)</u>

<u>FISCAL IMPACT - LOCAL</u>	FY 2004	FY 2005	FY 2006
<u>GOVERNMENT</u>	(10 MO.)		
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - SMALL BUSINESS

NO DIRECT FISCAL IMPACT TO SMALL BUSINESSES WOULD BE EXPECTED AS A RESULT OF THIS PROPOSAL.

DESCRIPTION

THE PROPOSED LEGISLATION WOULD MAKE IT A CLASS C FELONY FOR ANY PERSON WHO KNOWINGLY OBTAINS, POSSESSES OR USES PERSONAL IDENTIFYING INFORMATION WITHOUT THE CONSENT OF THE PERSON AND HAVING THE INTENT TO OBTAIN ANYTHING OF VALUE OR TO AVOID LEGAL CONSEQUENCES. THE PROPOSAL WOULD DEFINE "IDENTIFYING INFORMATION."

THE PROPOSAL WOULD ALSO MAKE IT A CLASS C FELONY FOR A PERSON TO SELL, TRANSFER OR PURCHASE IDENTIFYING

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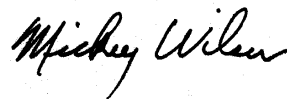
INFORMATION WITH THE INTENT TO COMMIT FINANCIAL IDENTITY FRAUD, OR TO ASSIST ANOTHER PERSON IN COMMITTING FINANCIAL IDENTITY FRAUD.

THIS LEGISLATION IS NOT FEDERALLY MANDATED, WOULD NOT DUPLICATE ANY OTHER PROGRAM AND WOULD NOT REQUIRE ADDITIONAL CAPITAL IMPROVEMENTS OR RENTAL SPACE.

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SOURCES OF INFORMATION

OFFICE OF ATTORNEY GENERAL  
OFFICE OF STATE COURTS ADMINISTRATOR  
DEPARTMENT OF ECONOMIC DEVELOPMENT  
DEPARTMENT OF CORRECTIONS  
DEPARTMENT OF PUBLIC SAFETY  
DEPARTMENT OF INSURANCE  
OFFICE OF PROSECUTION SERVICES  
OFFICE OF STATE PUBLIC DEFENDER



MICKEY WILSON, CPA  
DIRECTOR  
MARCH 3, 2003