

By: Keel

H.B. No. 1429

A BILL TO BE ENTITLED

AN ACT

relating to the investigation, prosecution, and punishment of identity theft and to the rights of victims of identity theft.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. (a) Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.28 to read as follows:

Art. 2.28. REPORT REQUIRED IN CONNECTION WITH FRAUDULENT USE OR POSSESSION OF IDENTIFYING INFORMATION. (a) A peace officer who investigates an alleged violation of Section 32.51, Penal Code, shall make a written report that includes the following information:

(1) the name of the victim;

(2) the name of the suspect, if known;

(3) the type of identifying information obtained, possessed, transferred, or used in violation of Section 32.51; and

(4) the results of the investigation.

(b) On the victim's request, the peace officer shall provide the report created under Subsection (a) to the victim. In providing the report, the peace officer shall redact any otherwise confidential information that is included in the report, other than the information described by Subsection (a).

(b) The change in law made by this section applies only to the investigation of an offense committed on or after September 1, 2003. The investigation of an offense committed before September

1 1, 2003, is covered by the law in effect when the offense was
2 committed, and the former law is continued in effect for that
3 purpose. For purposes of this subsection, an offense is committed
4 before September 1, 2003, if any element of the offense occurs
5 before that date.

6 SECTION 2. (a) Chapter 13, Code of Criminal Procedure, is
7 amended by adding Article 13.28 to read as follows:

8 Art. 13.28. FRAUDULENT USE OR POSSESSION OF IDENTIFYING
9 INFORMATION. An offense under Section 32.51, Penal Code, may be
10 prosecuted in:

11 (1) any county in which the offense was committed; or

12 (2) the county of residence for the person whose
13 identifying information was fraudulently obtained, possessed,
14 transferred, or used.

15 (b) The change in law made by this section applies only to
16 the prosecution of an offense commenced by the filing of an
17 indictment or information on or after September 1, 2003. A
18 prosecution commenced before September 1, 2003, is controlled by
19 the law in effect at the time the prosecution was commenced, and the
20 former law is continued in effect for that purpose.

21 SECTION 3. Subdivision (3), Article 56.01, Code of Criminal
22 Procedure, is amended to read as follows:

23 (3) "Victim" means a person:

24 (A) who is the victim of sexual assault,
25 kidnapping, ~~or~~ aggravated robbery, or fraudulent use or
26 possession of identifying information; or

27 (B) who has suffered bodily injury or death as a

1 result of the criminal conduct of another.

2 SECTION 4. (a) Section 32.51(a)(1), Penal Code, is amended
3 to read as follows:

4 (1) "Identifying information" means information that
5 alone or in conjunction with other information identifies an
6 individual, living or dead, including an individual's:

7 (A) name, social security number, date of birth,
8 and government-issued identification number;

9 (B) unique biometric data, including the
10 individual's fingerprint, voice print, and retina or iris image;

11 (C) unique electronic identification number,
12 address, and routing code; and

13 (D) telecommunication identifying information or
14 access device.

15 (b) Section 32.51, Penal Code, is amended by amending
16 Subsection (d) and adding Subsection (f) to read as follows:

17 (d) If a court orders a defendant convicted of an offense
18 under this section to make restitution to the victim of the offense,
19 the court may order the defendant to reimburse the victim for lost
20 income or other expenses, including ~~other than~~ attorney's fees,
21 incurred as a result of the offense.

22 (f) For the purposes of this section, intent to harm or
23 defraud another is presumed if the actor obtains, possesses,
24 transfers, or uses the identifying information of three or more
25 individuals, living or dead, without the consent of those
26 individuals.

27 (c) The change in law made by this section applies only to an

1 offense committed on or after September 1, 2003. An offense
2 committed before September 1, 2003, is covered by the law in effect
3 when the offense was committed, and the former law is continued in
4 effect for that purpose. For the purposes of this subsection, an
5 offense was committed before September 1, 2003, if any element of
6 the offense was committed before that date.

7 SECTION 5. This Act takes effect September 1, 2003.