

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 8, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB122 by Hinojosa (Relating to the prevention and punishment of identity theft and the rights of certain victims of identity theft; providing penalties.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure by requiring that a peace officer to whom an alleged violation of identity theft is reported, make a written report that includes the name of the victim, suspect, if known, type of identifying information obtained, possessed, transferred, or used, and the results of the investigation. The bill would also set forth provisions for prevention and punishment of identity theft and assistance to certain victims of identity theft.

The bill would impose a civil penalty of at least \$2,000 but not more than \$50,000 for each identity theft violation and would authorize the Attorney General to bring an action in the name of the state against the person to restrain the violation by a temporary restraining order or a permanent or temporary injunction. The Attorney General would have the option to file in a district court in Travis County or in any county in which the offense occurred or where the victim lives. The Attorney General would be authorized to recover reasonable expenses incurred in obtaining injunctive relief and civil penalties. Penalties collected by the Attorney General under this section would be required to be deposited into the General Revenue Fund and could be appropriated only for the investigation and prosecution of other cases under Chapter 48 of the Code of Criminal Procedure.

Other provisions of the bill would set out that no bond is required and would give the court authority to grant other equitable relief to protect victims. The bill would give a victim the option to file an application with the district court for the issuance of a court order to declare them a victim of identity theft. Information contained in the court order would be considered confidential.

The bill would take effect September 1, 2005.

The Office of the Attorney General estimates that the number of complaints, investigations, and cases that would occur as a result of the proposed legislation could be absorbed utilizing existing resources. Revenue gains deposited to the General Revenue Fund as a result of civil penalties imposed would range from \$2,000 to \$50,000 per violation. The number of violations and the level of the penalty imposed would determine the total revenue gain to the state, although the amount is not anticipated to be significant in relation to the overall amount contained in the General Revenue Fund. For example, if there were 1,000 cases filed and a penalty of \$50,000 imposed for each, the increase in revenue to the state would be \$50 million.

It is anticipated that requirements that would affect local law enforcement agencies, district clerks, and county clerks could be absorbed utilizing existing resources in most counties.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 405 Department of Public Safety

LBB Staff: JOB, KJG, JB, DLBa