

SENATE AMENDMENTS

2nd Printing

By: Miller, et al.

H.B. No. 460

A BILL TO BE ENTITLED

AN ACT

relating to the offense of fraudulent use or possession of a person's identifying information.

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

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

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

(A) name, social security number, date of birth, or [~~and~~] government-issued identification number;

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

(C) unique electronic identification number, address, [~~and~~] routing code, or financial institution account number; and

(D) telecommunication identifying information or access device.

SECTION 2. Section 32.51(b), Penal Code, is amended to read as follows:

(b) A person commits an offense if the person, with the intent to harm or defraud another, obtains, possesses, transfers, or uses identifying information of:

1 (1) a deceased natural person, including a stillborn
2 infant, without legal authorization; or

3 (2) another person without the other person's consent
4 [and with intent to harm or defraud another].

5 SECTION 3. The change in law made by this Act applies only
6 to an offense committed on or after the effective date of this Act.
7 An offense committed before the effective date of this Act is
8 covered by the law in effect at the time the offense was committed,
9 and the former law is continued in effect for that purpose. For
10 purposes of this section, an offense was committed before the
11 effective date of this Act if any element of the offense was
12 committed before that date.

13 SECTION 4. This Act takes effect September 1, 2007.

ADOPTED

MAY 23 2007

Atty. Gen.
Secretary of the Senate

By: Hegar

H.B. No. 460

Substitute the following for H.B. No. 460:

By: Selig

C.S. H.B. No. 460

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the offense of fraudulent use or possession of a
3 person's identifying information.

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

5 SECTION 1. Section 32.51(a)(1), Penal Code, is amended to
6 read as follows:

7 (1) "Identifying information" means information that
8 alone or in conjunction with other information identifies a person
9 ~~[an individual]~~, including a person's ~~[an individual's]~~:

10 (A) name and ~~[r]~~ social security number, date of
11 birth, or ~~[and]~~ government-issued identification number;

12 (B) unique biometric data, including the
13 person's ~~[individual's]~~ fingerprint, voice print, or ~~[and]~~ retina
14 or iris image;

15 (C) unique electronic identification number,
16 address, ~~[and]~~ routing code, or financial institution account
17 number; and

18 (D) telecommunication identifying information or
19 access device.

20 SECTION 2. Sections 32.51(b), (c), and (e), Penal Code, are
21 amended to read as follows:

22 (b) A person commits an offense if the person, with the
23 intent to harm or defraud another, obtains, possesses, transfers,
24 or uses an item of identifying information of:

1 (1) a deceased natural person, including a stillborn
2 infant or fetus, without legal authorization; or

3 (2) another person without the other person's consent
4 [and with intent to harm or defraud another].

5 (c) An offense under this section is:

6 (1) a state jail felony if the number of items
7 obtained, possessed, transferred, or used is less than five;

8 (2) a felony of the third degree if the number of items
9 obtained, possessed, transferred, or used is five or more but less
10 than 10;

11 (3) a felony of the second degree if the number of
12 items obtained, possessed, transferred, or used is 10 or more but
13 less than 50; or

14 (4) a felony of the first degree if the number of items
15 obtained, possessed, transferred, or used is 50 or more.

16 (e) If conduct that constitutes an offense under this
17 section also constitutes an offense under any other law, the actor
18 may be prosecuted under this section, ~~[or]~~ the other law, or both.

19 SECTION 3. The change in law made by this Act applies only
20 to an offense committed on or after the effective date of this Act.
21 An offense committed before the effective date of this Act is
22 covered by the law in effect when the offense was committed, and the
23 former law is continued in effect for that purpose. For purposes of
24 this section, an offense was committed before the effective date of
25 this Act if any element of the offense was committed before that
26 date.

27 SECTION 4. This Act takes effect September 1, 2007.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

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

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

IN RE: HB460 by Miller (Relating to the offense of fraudulent use or possession of a person's identifying information.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by further defining the conditions that define the offense of fraudulent use or possession of identifying information to include, with the intent to harm or defraud another, obtains an item of identifying information of a deceased natural person, including a stillborn infant or fetus without legal authorization. The offense, which is currently punishable as a state jail felony, would be punishable as a state jail felony, third degree felony, second degree felony, or first degree felony, depending on the number of items obtained, possessed, transferred or used in the offense.

In fiscal year 2006, there were 260 admissions to state jail for the offense of fraudulent use or possession of identifying information. The number of these 260 admissions that committed their offense with identifying information from a deceased person, including a stillborn infant or fetus is unknown. The number of items used in the offense is also unknown. Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. In the case of this bill, it is assumed that the bill would not significantly affect the operations of state or local government.

Local Government Impact

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

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

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

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

IN RE: HB460 by Miller (Relating to the offense of fraudulent use or possession of a person's identifying information.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by further defining identifying information involved in the offense of fraudulent use or possession of a person's identifying information. The bill would also include a deceased natural person, including a stillborn infant for the conditions regarding the offense of fraudulent use or possession of a person's identifying information. It is assumed that the bill would not significantly affect the operations of state or local government.

Local Government Impact

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

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 28, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

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

IN RE: **HB460** by Miller (Relating to the offense of fraudulent use or possession of a person's identifying information.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by further defining identifying information involved in the offense of fraudulent use or possession of a person's identifying information. The bill would also include a deceased natural person, including a stillborn infant for the conditions regarding the offense of fraudulent use or possession of a person's identifying information. It is assumed that the bill would not significantly affect the operations of state or local government.

Local Government Impact

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

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 26, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB460 by Miller (Relating to the offense of fraudulent use or possession of a person's identifying information.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Penal Code by enhancing the punishment for the offense of fraudulent use or possession of identifying information from a state jail felony to a felony of the third degree if with the intent to harm or defraud another, the person uses identifying information of a deceased natural person, including a stillborn infant or fetus, without legal authorization.

In fiscal year 2006, there were 260 admissions to state jail for the offense of fraudulent use or possession of identifying information. The number of these 260 admissions that committed their offense with identifying information from a deceased person is unknown. Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. In the case of this bill, the increased workload and demand for resources would probably not be substantial.

Local Government Impact

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

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ES, GG

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 16, 2007

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

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

IN RE: HB460 by Miller (Relating to the offense of fraudulent use or possession of a person's identifying information.), **Committee Report 2nd House, Substituted**

The bill would amend the Penal Code by further defining the conditions that define the offense of fraudulent use or possession of identifying information to include, with the intent to harm or defraud another, obtains an item of identifying information of a deceased natural person, including a stillborn infant or fetus without legal authorization. The offense, which is currently punishable as a state jail felony, would be punishable as a state jail felony, third degree felony, second degree felony, or first degree felony, depending on the number of items obtained, possessed, transferred or used in the offense.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

A third degree felony is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A second degree felony is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A first degree felony is punishable by imprisonment in the institutional division for life or for any term of not more than 99 years or less than 5 years, or in addition to imprisonment, a fine not to exceed \$10,000.

In fiscal year 2006, there were 260 admissions to state jail for the offense of fraudulent use or possession of identifying information. The number of these 260 admissions that committed their offense with identifying information from a deceased person, including a stillborn infant or fetus is unknown. The number of items used in the offense is also unknown. Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. In the case of this bill, it is assumed that the number of offenders convicted under this statute would not result in a significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies.

Source Agencies:

LBB Staff: JOB, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

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

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

IN RE: HB460 by Miller (Relating to the offense of fraudulent use or possession of a person's identifying information.), **As Engrossed**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

March 28, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

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

IN RE: **HB460** by Miller (Relating to the offense of fraudulent use or possession of a person's identifying information.), **Committee Report 1st House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

February 27, 2007

TO: Honorable Aaron Pena, Chair, House Committee on Criminal Jurisprudence

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

IN RE: HB460 by Miller (Relating to the offense of fraudulent use or possession of a person's identifying information.), **As Introduced**

The bill would amend the Penal Code by enhancing the punishment for the offense of fraudulent use or possession of identifying information from a state jail felony to a felony of the third degree if with the intent to harm or defraud another, the person uses identifying information of a deceased natural person, including a stillborn infant or fetus, without legal authorization.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

A third degree felony is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

In fiscal year 2006, there were 260 admissions to state jail for the offense of fraudulent use or possession of identifying information. The number of these 260 admissions that committed their offense with identifying information from a deceased person is unknown. Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. In the case of this bill, the increased workload and demand for resources would probably not be substantial.

Source Agencies:

LBB Staff: JOB, GG

