

BILL ANALYSIS

Senate Research Center
87R4650 JES-F

H.B. 3529
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Business & Commerce
5/6/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Coerced debt is an increasingly common form of domestic abuse affecting both married and unmarried couples and includes all nonconsensual, credit-related transactions that occur in a violent relationship. This form of financial abuse can have devastating effects for victims, substantially limiting their economic self-sufficiency or preventing them from leaving an abusive relationship in the first place. Even if a victim manages to overcome the barriers (including financial) to escape from an abusive situation, his or her low credit score could affect employment, housing, insurance, and future credit opportunities. These additional challenges make survivors more dependent on ostensibly temporary victim services and at far greater risk for any number of negative outcomes.

H.B. 2697 (2019) amended the Penal Code definition of identity theft to include coerced debt, allowing for this form of family violence to be prosecuted and providing survivors access to Fair Credit Reporting Act (FCRA) protections. While these provisions have proven effective, experts warn that allowing a single pathway for recourse—filing a police report—inhibits many victims and survivors of family violence from successfully escaping abusive situations.

Accordingly, H.B. 3529 would amend the definition of identity theft in the Business & Commerce Code to include coerced debt, thereby allowing victims and survivors an alternative means of long-term recovery within the civil legal system via damages from identity theft, FCRA protections, or both.

H.B. 3529 amends current law relating to consent for the use or possession of personal identifying information under the Identity Theft Enforcement and Protection Act.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 521.051, Business & Commerce Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Prohibits a person from obtaining, possessing, transferring, or using personal identifying information of another person without the other person's consent or effective consent and with intent to obtain a good, a service, insurance, an extension of credit, or any other thing of value in the other person's name.

(a-1) Defines, for purposes of Section 521.051 (Unauthorized Use or Possession of Personal Identifying Information), "effective consent" to include consent given by a person legally authorized to act on behalf of the person from whom consent is required. Provides that consent is not effective if:

(1) induced by force, threat, fraud, or coercion; or

(2) given by a person who by reason of youth, mental illness, or intellectual disability is known by the actor to be unable to make reasonable decisions.

SECTION 2. Makes application of Section 521.051, Business & Commerce Code, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2021.