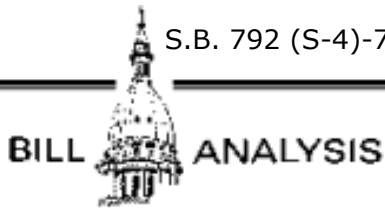




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Senate Bill 792 (Substitute S-4 as reported by the Committee of the Whole)  
Senate Bill 793 (Substitute S-1 as reported)  
Senate Bill 794 (Substitute S-2 as reported)  
Sponsor: Senator Michael D. Bishop (Senate Bill 792)  
Senator Gerald Van Woerkom (Senate Bill 793)  
Senator Laura M. Toy (Senate Bill 794)  
Committee: Judiciary

## **CONTENT**

Senate Bill 792 (S-2) would create the "Identify Theft Protection Act" to prohibit a person from: committing or attempting to commit identity theft; obtaining or possessing another's personal identifying information with the intent to use it to commit identity theft or another unlawful act; selling or transferring another's personal identifying information, knowing or having reason to know that the intended recipient would use the information for the purpose of committing identity theft or another unlawful act; or falsifying an identity theft victim certificate (issued under Senate Bill 794), or knowingly creating, possessing, or using a false certificate. A violation would be a felony punishable by up to five years' imprisonment and/or a \$10,000 fine.

("Identity theft" would mean any unauthorized use of another's personal identifying information to obtain credit, goods, services, money, property, medical records or information, or employment, or to commit an unlawful act.)

The bill also would prohibit a person from: denying credit or public utility service solely because the consumer was a victim of identity theft; soliciting to extend credit to a consumer who did not have an existing line of credit, or had not had or applied for a line of credit within the preceding year, through the use of an unsolicited check that included certain personal identifying information; soliciting to extend credit to a consumer who did not have a current credit card, or had not had or applied for one within the preceding year, through the use of an unsolicited credit card; or extending credit to a consumer without exercising procedures to verify that consumer's identity. A violation would be a misdemeanor punishable by up to 30 days' imprisonment and/or a maximum fine of \$100.

The bill would create the Identity Theft Advisory Board consisting of the Governor, the Attorney General, the Secretary of State, the Senate Majority Leader, and the Speaker of the House; or the designee of one of those individuals. The board would have to study data from identity theft cases in Michigan and annually report to the Legislature any recommendations for statutory changes.

Senate Bill 793 (S-1) would amend the Code of Criminal Procedure to specify that a violation of the proposed Identity Theft Protection Act or a violation of law committed in furtherance of or arising from the same transaction as a violation of that Act, could be prosecuted in the jurisdiction in which the offense occurred, the jurisdiction in which the information used to commit the violation was illegally used, or the jurisdiction in which the victim lived. If a person were charged with more than one identity theft violation and those violations could be prosecuted in more than one jurisdiction, any of those jurisdictions would be a proper jurisdiction for all of the violations.

Senate Bill 794 (S-2) would amend the Code of Criminal Procedure to allow an individual who was the victim of identity theft to apply to the county prosecuting attorney having jurisdiction

over the violation for a certificate stating that he or she was an identity theft victim. Before submitting an application, the individual would have to file a complaint regarding the violation with a law enforcement agency having jurisdiction over the violation. If an individual properly submitted an application, the prosecuting attorney would have to issue a certificate. A person who knowingly made a material false statement on an application would be guilty of perjury.

A prosecuting attorney could not charge a fee for issuing a certificate and would have to maintain the application on file for two years. Before issuing the certificate, the prosecuting attorney could request the law enforcement agency receiving the complaint to investigate the violation. A certificate would have to be on a form prescribed by the Department of State Police and provided free of charge to county prosecuting attorneys.

A county prosecutor could revoke a certificate by mailing a written notice of revocation to the applicant, who would have to return the certificate within 14 days. Knowingly failing to do so would be a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$500.

Senate Bill 792 (S-2) is tie-barred to Senate Bills 793 and 794, which are tie-barred to Senate Bill 792. All three bills would take effect on March 31, 2004.

Proposed MCL 762.10c (S.B. 793)  
Proposed MCL 776.23 (S.B. 794)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

Senate Bill 792 (S-2) would have an indeterminate fiscal impact on State and local government. The proposed felony of identity theft would replace the existing felony of obtaining personal identification information without authorization and with intent to use the information unlawfully. According to the Department of Corrections Statistical Report, in 2001 seven people were convicted of that offense. Of those, one offender received incarceration in a State prison, one received incarceration in a local jail, and five received probation. Local units pay for incarceration in local facilities, the cost of which varies by county. The State incurs the cost of felony probation at an average annual cost of \$1,750, as well as the cost of incarceration in a State facility at an average annual cost of \$27,000. If one assumes that the number of offenders and types of sentences received would be similar for the proposed offense as the existing offense, the change would have no fiscal impact.

There are no data to indicate how many offenders would be convicted of a misdemeanor for committing the trade practices described in the bill. Offenders would receive probation, imprisonment for up to 30 days in a local facility, and/or a fine of up to \$100. Local units would incur the costs of both misdemeanor probation and incarceration, which vary by county.

Senate Bill 793 (S-1) would have no fiscal impact on the State and an indeterminate fiscal impact on local units of government. To the extent that the bill would increase the number of cases prosecuted, it would increase local court costs.

Senate Bill 794 (S-2) would have an indeterminate fiscal impact on the Department of State, which would have to provide certificate forms to county prosecuting attorneys. The number of certificates to be provided under the bill cannot be determined at this time. The bill also would result in an indeterminate financial cost for local prosecutors, depending on the number of applications they received for certificates of identity theft.

Date Completed: 12-9-03

Fiscal Analyst: Bethany Wicksall,  
Bruce Baker, Bill Bowerman

#### Floor\sb792

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.