SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 696

SPONSOR: Senator Campbell

SUBJECT: Criminal Use of Personal Information

DATE: March 21, 2001 REVISED: ________ ________ ________ ________

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Favorable
2.			APJ	
3.			AP	
4.				
5.				
6.				

I. Summary:

Senate Bill 696 amends s. 817.568, F.S., to create a new identity theft offense. It is provided that any person who willfully and without authorization fraudulently uses personal identification information concerning an individual without first obtaining that individual's consent commits a second degree felony if the pecuniary benefit, the value of services received, the payment sought to be avoided, or the amount of the injury perpetrated is $75,000 or more.

This bill substantially amends s. 817.568, F.S.

II. Present Situation:

On January 11, 2001, the Task Force on Privacy and Technology submitted its recommendations. *Executive Summary of Policy Recommendations*, Task Force on Privacy and Technology (January 11, 2001). The Task Force was particularly concerned about the crime of identity theft, which Florida law punishes in s. 817.568, F.S. The Task Force reported the extent of identity theft and its effects:

> Recent surveys have indicated that identity theft is one of the fastest growing crimes in America, affecting nearly half a million victims in 1998 and expected to affect more than 750,000 victims this year. The problem is particularly acute in Florida, which accounts for more reported complaints of identity theft to the Federal Trade Commission than any State except California and New York. Approximately 54% of identity theft victims reported credit card fraud, while 26% reported that an identity thief opened up telephone, cellular or other utility services in the victim's name. Bank fraud and fraudulent loans accounted for approximately 27% of identity theft reports. Although many instances of identity theft occur without the use of the sophisticated

technologies of the New Economy, experts agree that technological changes may make identity theft easier and more prevalent in coming years.

In response to the surge in reported instances of identity theft, 27 states enacted identity protection legislation in 1999 and an additional 10 states enacted legislation in 2000. Florida enacted its identity protection legislation – now codified at Section 817.568, Florida Statutes – in 1999.

Reports from identity theft victims and individuals presenting information to the Task Force uniformly suggested that the toll of identity theft on victims is extraordinarily significant. On average, identity theft victims spend more than 175 hours to regain their financial health, at a personal cost fast approaching $1,000. The Task Force also received evidence that the victims of identity theft include our Nation's large and small businesses, all of whom must absorb or pass on to consumers' annual costs in excess of $1 billion arising from identity theft-related fraud. Both business and individual victims of identity theft spoke repeatedly about the need for government, and private sector credit granting and credit reporting institutions, to do more to address the critical task of identity restoration for victims.

The Task Force also heard about the need to do more with respect to identity theft prosecution and deterrence. The Task Force reviewed a survey conducted by the Cal/PIRG-Privacy Clearinghouse group in which three-fourths of respondents felt that law enforcement officers were often unhelpful in identity theft cases. Respondents also noted that law enforcement officers were sometimes unwilling to even file formal police reports in response to victim complaints. Anecdotal evidence received by the Task Force confirmed these survey findings. Evidence presented to the Task Force also confirmed that there are significant gaps in Florida's existing identity protection legislation and law enforcement capacity. In addition, the Task Force heard from presenters who suggested that private sector credit granting and reporting institutions, and governmental entities such as public universities, could modify their practices in order to deter more instances of identity theft.

Section 817.568(2), F.S., provides that any person who willfully and without authorization fraudulently uses, or possesses with intent to fraudulently use, personal identification information concerning an individual without first obtaining that individual's consent, commits the offense of fraudulent use of personal identification information, which is a felony of the third degree.

Section 817.568(3), F.S., provides that any person who willfully and without authorization possesses, uses, or attempts to use personal identification information concerning an individual without first obtaining that individual's consent, and who does so for the purpose of harassing that individual, commits the offense of harassment by use of personal identification information, which is a misdemeanor of the first degree.

The third degree felony offense in s. 817.568(3), F.S., is unranked for purposes of sentencing, and therefore receives a default level ranking as a level 1 offense.

III. Effect of Proposed Changes:

Senate Bill 696 amends s. 817.568, F.S., to create a new identity theft offense. It is provided that any person who willfully and without authorization fraudulently uses personal identification information concerning an individual without first obtaining that individual's consent commits a second degree felony if the pecuniary benefit, the value of services received, the payment sought to be avoided, or the amount of the injury perpetrated is $75,000 or more.

The new second degree felony offense is not ranked and therefore receives a default ranking within level 4 based on the felony degree of the offense. s. 921.0023, F.S.

The bill takes effect October 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

An impact analysis of this legislation was requested from the Criminal Justice Estimating Conference but was not received at the time this analysis was completed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.