

As Reported by the House Criminal Justice Committee

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Sub. H. B. No. 309

REPRESENTATIVES Hughes, Calvert, Carmichael, Collier, Fessler,
Goodman, Hoops, Latta, Lendrum, Olman, Reidelbach, Schaffer, Schmidt,
G. Smith, Key, R. Miller, Womer Benjamin, Sulzer, Seaver, S. Smith, Brown,
Faber, Willamowski

A BILL

To amend section 2913.49 of the Revised Code to revise 1
the elements of and the penalty for taking the 2
identity of another. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2913.49 of the Revised Code be 4
amended to read as follows: 5

Sec. 2913.49. (A) As used in this section, "personal 6
identifying information" includes, but is not limited to, the 7
following: the name, address, telephone number, driver's license, 8
driver's license number, commercial driver's license, commercial 9
driver's license number, state identification card, state 10
identification card number, social security card, social security 11
number, birth certificate, place of employment, employee 12
identification number, mother's maiden name, demand deposit 13
account number, savings account number, money market account 14
number, mutual fund account number, other financial account 15
number, personal identification number, password, or credit card 16
number of a living or dead individual. 17

(B) No person, without the express or implied consent of the other person, shall use, or obtain, or possess, or with intent to use, any personal identifying information of any living or dead individual with the intent to fraudulently obtain credit, property, or services or avoid the payment of a debt or any other legal obligation another person to do either of the following or with intent to do either of the following:

(1) Hold the person out to be the other person;

(2) Represent the other person's personal identifying information as the person's own personal identifying information.

(C) No person shall create, obtain, possess, or use the personal identifying information of any ~~living or dead individual person~~ with the intent to aid or abet another person in violating division (B) of this section.

(D) It is an affirmative defense to a charge under division (B) of this section that any of the following apply:

(1) The person using the personal identifying information is acting in accordance with a legally recognized guardianship or conservatorship or as a trustee or fiduciary.

(2) A law enforcement agency, authorized fraud personnel, or a representative of or attorney for a law enforcement agency or authorized fraud personnel uses the personal identifying information in a bona fide investigation, an information security evaluation, a pretext calling evaluation, or a similar matter.

(3) The personal identifying information was obtained, possessed, or used for a lawful purpose.

(E) It is not a defense to a charge under this section that the person whose personal identifying information was obtained, possessed, or used was deceased at the time of the offense.

(F)(1) If the violation of division (B) of this section

occurs as part of a course of conduct involving other violations 48
of division (B) of this section or violations of, attempts to 49
violate, conspiracies to violate, or complicity in violations of 50
division (C) of this section or section 2913.02, 2913.04, 2913.11, 51
2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised 52
Code, the court, in determining the degree of the offense pursuant 53
to division ~~(E)~~(G) of this section, may aggregate all credit, 54
property, or services obtained or sought to be obtained by the 55
offender and all debts or other legal obligations avoided or 56
sought to be avoided by the offender in the violations involved in 57
that course of conduct. The course of conduct may involve one 58
victim or more than one victim. 59

(2) If the violation of division (C) of this section occurs 60
as part of a course of conduct involving other violations of 61
division (C) of this section or violations of, attempts to 62
violate, conspiracies to violate, or complicity in violations of 63
division (B) of this section or section 2913.02, 2913.04, 2913.11, 64
2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised 65
Code, the court, in determining the degree of the offense pursuant 66
to division ~~(E)~~(G) of this section, may aggregate all credit, 67
property, or services obtained or sought to be obtained by the 68
person aided or abetted and all debts or other legal obligations 69
avoided or sought to be avoided by the person aided or abetted in 70
the violations involved in that course of conduct. The course of 71
conduct may involve one victim or more than one victim. 72

~~(E)~~(G) Whoever violates this section is guilty of taking the 73
identity of another. Except as otherwise provided in this 74
division, taking the identity of another is a misdemeanor of the 75
first degree. If the value of the credit, property, services, 76
debt, or other legal obligation involved in the violation or 77
course of conduct is five hundred dollars or more and is less than 78
five thousand dollars, taking the identity of another is a felony 79

of the ~~fifth~~ fourth degree. If the value of the credit, property, 80
services, debt, or other legal obligation involved in the 81
violation or course of conduct is five thousand dollars or more 82
and is less than one hundred thousand dollars, taking the identity 83
of another is a felony of the ~~fourth~~ third degree. If the value of 84
the credit, property, services, debt, or other legal obligation 85
involved in the violation or course of conduct is one hundred 86
thousand dollars or more, taking the identity of another is a 87
felony of the ~~third~~ second degree. 88

Section 2. That existing section 2913.49 of the Revised Code 89
is hereby repealed. 90