

As Introduced

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H. B. No. 48

Representatives Hughes, Aslanides, Combs, C. Evans, D. Evans, Faber,
Flowers, Gibbs, Hoops, Kearns, Latta, McGregor, Oelslager, Schaffer,
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—

A BILL

To amend section 2913.49 and to enact section 109.94 1
of the Revised Code to increase the penalty for 2
identity fraud against an elderly person or 3
disabled adult, and to create the Identity Fraud 4
Passport. 5

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

Section 1. That section 2913.49 be amended and section 109.94 6
of the Revised Code be enacted to read as follows: 7

Sec. 109.94. (A) The attorney general, in cooperation with 8
any law enforcement agency, may issue an identity fraud passport 9
to a person who is a victim of identity fraud in this state and 10
has filed a police report with any law enforcement agency citing 11
that the person is a victim of a violation of section 2913.49 of 12
the Revised Code. Once a police report of that nature has been 13
filed with any law enforcement agency, the victim may apply for an 14
identity fraud passport through any law enforcement agency. The 15
law enforcement agency shall send a copy of the police report and 16
the application for an identity fraud passport to the attorney 17
general. The attorney general shall process the application and 18

supporting police report and may issue the victim of identity 19
fraud an identity fraud passport in the form of a card or 20
certificate. 21

(B)(1) A victim of identity fraud may present the victim's 22
identity fraud passport issued by the attorney general in 23
accordance with division (A) of this section to both of the 24
following: 25

(a) A law enforcement agency to help prevent the victim's 26
arrest or detention for offenses committed by someone other than 27
the victim who is using the victim's identity; 28

(b) Any of the victim's creditors to aid in the creditors' 29
investigation and establishment of whether fraudulent charges were 30
made against accounts in the victim's name or whether accounts 31
were opened using the victim's identity. 32

(2) Acceptance of the identity fraud passport presented by 33
the victim to a law enforcement agency or creditors pursuant to 34
division (B)(1) of this section is at the discretion of the law 35
enforcement agency or creditor. A law enforcement agency or 36
creditor may consider the surrounding circumstances and available 37
information regarding the offense of identity fraud pertaining to 38
the victim. 39

(C) An application made with the attorney general pursuant to 40
division (A) of this section, including any supporting 41
documentation, is not a public record pursuant to section 149.43 42
of the Revised Code. The attorney general may provide access to 43
the applications and supporting documentation filed with the 44
attorney general's office to other criminal justice agencies in 45
this or another state. 46

Sec. 2913.49. (A) As used in this section, "personal 47
identifying information" includes, but is not limited to, the 48

following: the name, address, telephone number, driver's license, 49
driver's license number, commercial driver's license, commercial 50
driver's license number, state identification card, state 51
identification card number, social security card, social security 52
number, birth certificate, place of employment, employee 53
identification number, mother's maiden name, demand deposit 54
account number, savings account number, money market account 55
number, mutual fund account number, other financial account 56
number, personal identification number, password, or credit card 57
number of a living or dead individual. 58

(B) No person, without the express or implied consent of the 59
other person, shall use, obtain, or possess any personal 60
identifying information of another person with intent to do either 61
of the following: 62

(1) Hold the person out to be the other person; 63

(2) Represent the other person's personal identifying 64
information as the person's own personal identifying information. 65

(C) No person shall create, obtain, possess, or use the 66
personal identifying information of any person with the intent to 67
aid or abet another person in violating division (B) of this 68
section. 69

(D) No person, with intent to defraud, shall permit another 70
person to use the person's own personal identifying information. 71

(E) No person who is permitted to use another person's 72
personal identifying information as described in division (D) of 73
this section shall use, obtain, or possess the other person's 74
personal identifying information with intent to defraud any person 75
by doing any act identified in division (B)(1) or (2) of this 76
section. 77

(F)(1) It is an affirmative defense to a charge under 78
division (B) of this section that the person using the personal 79

identifying information is acting in accordance with a legally 80
recognized guardianship or conservatorship or as a trustee or 81
fiduciary. 82

(2) It is an affirmative defense to a charge under division 83
(B), (D), or (E) of this section that either of the following 84
applies: 85

(a) The person or entity using the personal identifying 86
information is a law enforcement agency, authorized fraud 87
personnel, or a representative of or attorney for a law 88
enforcement agency or authorized fraud personnel and is using the 89
personal identifying information in a bona fide investigation, an 90
information security evaluation, a pretext calling evaluation, or 91
a similar matter. 92

(b) The personal identifying information was obtained, 93
possessed, or used for a lawful purpose. 94

(G) It is not a defense to a charge under this section that 95
the person whose personal identifying information was obtained, 96
possessed, or used was deceased at the time of the offense. 97

(H)(1) If ~~the~~ an offender commits a violation of division 98
(B), (D), or (E) of this section and the violation occurs as part 99
of a course of conduct involving other violations of division (B), 100
(D), or (E) of this section or violations of, attempts to violate, 101
conspiracies to violate, or complicity in violations of division 102
(C) of this section or section 2913.02, 2913.04, 2913.11, 2913.21, 103
2913.31, 2913.42, 2913.43, or 2921.13 of the Revised Code, the 104
court, in determining the degree of the offense pursuant to 105
division (I) of this section, may aggregate all credit, property, 106
or services obtained or sought to be obtained by the offender and 107
all debts or other legal obligations avoided or sought to be 108
avoided by the offender in the violations involved in that course 109
of conduct. The course of conduct may involve one victim or more 110

than one victim. 111

(2) If ~~the~~ an offender commits a violation of division (C) of 112
this section and the violation occurs as part of a course of 113
conduct involving other violations of division (C) of this section 114
or violations of, attempts to violate, conspiracies to violate, or 115
complicity in violations of division (B), (D), or (E) of this 116
section or section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 117
2913.42, 2913.43, or 2921.13 of the Revised Code, the court, in 118
determining the degree of the offense pursuant to division (I) of 119
this section, may aggregate all credit, property, or services 120
obtained or sought to be obtained by the person aided or abetted 121
and all debts or other legal obligations avoided or sought to be 122
avoided by the person aided or abetted in the violations involved 123
in that course of conduct. The course of conduct may involve one 124
victim or more than one victim. 125

(I)(1) Whoever violates this section is guilty of identity 126
fraud. ~~Except~~ 127

(2) Except as otherwise provided in this division or division 128
(I)(3) of this section, identity fraud is a misdemeanor of the 129
first degree. If the value of the credit, property, services, 130
debt, or other legal obligation involved in the violation or 131
course of conduct is five hundred dollars or more and is less than 132
five thousand dollars, except as otherwise provided in division 133
(I)(3) of this section, identity fraud is a felony of the fourth 134
degree. If the value of the credit, property, services, debt, or 135
other legal obligation involved in the violation or course of 136
conduct is five thousand dollars or more and is less than one 137
hundred thousand dollars, except as otherwise provided in division 138
(I)(3) of this section, identity fraud is a felony of the third 139
degree. If the value of the credit, property, services, debt, or 140
other legal obligation involved in the violation or course of 141
conduct is one hundred thousand dollars or more, except as 142

otherwise provided in division (I)(3) of this section, identity 143
fraud is a felony of the second degree. 144

(3) If the victim of the offense is an elderly person or 145
disabled adult, a violation of this section is identity fraud 146
against an elderly person or disabled adult. Except as otherwise 147
provided in this division, identity fraud against an elderly 148
person or disabled adult is a felony of the fifth degree. If the 149
value of the credit, property, services, debt, or other legal 150
obligation involved in the violation or course of conduct is five 151
hundred dollars or more and is less than five thousand dollars, 152
identity fraud against an elderly person or disabled adult is a 153
felony of the third degree. If the value of the credit, property, 154
services, debt, or other legal obligation involved in the 155
violation or course of conduct is five thousand dollars or more 156
and is less than one hundred thousand dollars, identity fraud 157
against an elderly person or disabled adult is a felony of the 158
second degree. If the value of the credit, property, services, 159
debt, or other legal obligation involved in the violation or 160
course of conduct is one hundred thousand dollars or more, 161
identity fraud against an elderly person or disabled adult is a 162
felony of the first degree. 163

Section 2. That existing section 2913.49 of the Revised Code 164
is hereby repealed. 165