

As Passed by the House

**126th General Assembly
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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,
J. Stewart, Taylor, Trakas, Webster, DeGeeter, Otterman, Perry, Gilb, Seaver,
Willamowski, D. Stewart, Barrett, Brown, Buehrer, Calvert, Carano, Cassell,
Chandler, Collier, Distel, Driehaus, Garrison, Hagan, Harwood, Martin,
T. Patton, Peterson, Setzer, G. Smith, Strahorn, Uecker, Wagner, Wagoner,
Walcher, Widener, Williams, Wolpert, Yuko**

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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 law enforcement agency shall send a copy of the police report and the application for an identity fraud passport to the attorney general. The attorney general shall process the application and supporting police report and may issue the victim of identity fraud an identity fraud passport in the form of a card or certificate.

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

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

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

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

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

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this or another state.

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

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

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

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

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

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

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(E) No person who is permitted to use another person's personal identifying information as described in division (D) of this section shall use, obtain, or possess the other person's personal identifying information with intent to defraud any person

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by doing any act identified in division (B)(1) or (2) of this
section.

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(F)(1) It is an affirmative defense to a charge under
division (B) of this section that the person using the personal
identifying information is acting in accordance with a legally
recognized guardianship or conservatorship or as a trustee or
fiduciary.

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

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

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

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(G) 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.

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(H)(1) If ~~the~~ an offender commits a violation of division
(B), (D), or (E) of this section and the violation occurs as part
of a course of conduct involving other violations of division (B),
(D), or (E) of this section or violations of, attempts to violate,
conspiracies to violate, or complicity in violations of division
(C) of this section or section 2913.02, 2913.04, 2913.11, 2913.21,
2913.31, 2913.42, 2913.43, or 2921.13 of the Revised Code, the
court, in determining the degree of the offense pursuant to
division (I) of this section, may aggregate all credit, property,

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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