

**As Passed by the Senate**

**126th General Assembly  
Regular Session  
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**Sub. 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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Willamowski, D. Stewart, Barrett, Brown, Buehrer, Calvert, Carano, Cassell,  
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T. Patton, Peterson, Setzer, G. Smith, Strahorn, Uecker, Wagner, Wagoner,  
Walcher, Widener, Williams, Wolpert, Yuko  
Senators Clancy, Jordan, Austria, Grendell, Schuring, Zurz, Goodman,  
Amstutz, Coughlin, Gardner, Padgett, Roberts, Schuler, Mumper, Niehaus,  
Spada, Armbruster, Wachtmann**

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**A B I L L**

To amend section 2913.49 and to enact section 109.94 1  
of the Revised Code to increase the penalty for 2  
identity fraud in certain circumstances, including 3  
when it is committed against an elderly person or 4  
disabled adult, to modify the affirmative defenses 5  
available for that offense, and to create the 6  
Identity Fraud Passport. 7

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

**Section 1.** That section 2913.49 be amended and section 109.94 8  
of the Revised Code be enacted to read as follows: 9

**Sec. 109.94.** (A) The attorney general, in cooperation with 10  
any law enforcement agency, may issue an identity fraud passport 11

to a person who is a victim in this state of identity fraud or  
identity fraud against an elderly person or disabled adult and has  
filed a police report with any law enforcement agency citing that  
the person is a victim of a violation of section 2913.49 of the  
Revised Code. Once a police report of that nature has been filed  
with any law enforcement agency, the victim may apply for an  
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 or identity fraud against an elderly person or disabled  
adult an identity fraud passport in the form of a card or  
certificate.

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(B)(1) A victim of identity fraud or identity fraud against  
an elderly person or disabled adult 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

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information regarding the offense of identity fraud pertaining to  
the victim.

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(C)(1) Subject to its use for statistical purposes pursuant  
to division (C)(2) of this section, 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 this or another state.

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(2) The attorney general shall maintain statistics with  
respect to the number of applications for identity fraud passports  
submitted, and the number of identity fraud passports issued,  
pursuant to division (A) of this section. Not later than the first  
day of November in each year, the attorney general shall submit a  
statistical report to the governor, the president and minority  
leader of the senate, and the speaker and minority leader of the  
house of representatives indicating the number of applications for  
identity fraud passports submitted, and the number of identity  
fraud passports issued, pursuant to division (A) of this section  
in the previous fiscal year. Nothing in the statistics maintained  
or the statistical report submitted by the attorney general  
pursuant to this division shall identify, or enable the  
identification of, any individual who applied for, was issued, or  
was denied an identity fraud passport. The statistics and the  
statistical report are public records for the purpose of section  
149.43 of the Revised Code.

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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

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driver's license number, state identification card, state 74  
identification card number, social security card, social security 75  
number, birth certificate, place of employment, employee 76  
identification number, mother's maiden name, demand deposit 77  
account number, savings account number, money market account 78  
number, mutual fund account number, other financial account 79  
number, personal identification number, password, or credit card 80  
number of a living or dead individual. 81

(B) No person, without the express or implied consent of the 82  
other person, shall use, obtain, or possess any personal 83  
identifying information of another person with intent to do either 84  
of the following: 85

(1) Hold the person out to be the other person; 86

(2) Represent the other person's personal identifying 87  
information as the person's own personal identifying information. 88

(C) No person shall create, obtain, possess, or use the 89  
personal identifying information of any person with the intent to 90  
aid or abet another person in violating division (B) of this 91  
section. 92

(D) No person, with intent to defraud, shall permit another 93  
person to use the person's own personal identifying information. 94

(E) No person who is permitted to use another person's 95  
personal identifying information as described in division (D) of 96  
this section shall use, obtain, or possess the other person's 97  
personal identifying information with intent to defraud any person 98  
by doing any act identified in division (B)(1) or (2) of this 99  
section. 100

(F)(1) It is an affirmative defense to a charge under 101  
division (B) of this section that the person using the personal 102  
identifying information is acting in accordance with a legally 103  
recognized guardianship or conservatorship or as a trustee or 104

fiduciary.

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

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(a) The person or entity using, obtaining, possessing, or  
creating the personal identifying information or permitting it to  
be used 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, obtaining, possessing, or  
creating the personal identifying information or permitting it to  
be used, with prior consent given as specified in this division,  
in a bona fide investigation, an information security evaluation,  
a pretext calling evaluation, or a similar matter. The prior  
consent required under this division shall be given by the person  
whose personal identifying information is being used, obtained,  
possessed, or created or is being permitted to be used or, if the  
person whose personal identifying information is being used,  
obtained, possessed, or created or is being permitted to be used  
is deceased, by that deceased person's executor, or a member of  
that deceased person's family, or that deceased person's attorney.  
The prior consent required under this division may be given orally  
or in writing by the person whose personal identifying information  
is being used, obtained, possessed, or created or is being  
permitted to be used or that person's executor, or family member,  
or attorney.

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(b) The personal identifying information was obtained,  
possessed, ~~or~~ used, created, or permitted to be used for a lawful  
purpose, provided that division (F)(2)(b) of this section does not  
apply if the person or entity using, obtaining, possessing, or  
creating the personal identifying information or permitting it to  
be used is a law enforcement agency, authorized fraud personnel,  
or a representative of or attorney for a law enforcement agency or

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authorized fraud personnel that is using, obtaining, possessing, 137  
or creating the personnel identifying information or permitting it 138  
to be used in an investigation, an information security 139  
evaluation, a pretext calling evaluation, or similar matter. 140

(G) It is not a defense to a charge under this section that 141  
the person whose personal identifying information was obtained, 142  
possessed, ~~or~~ used, created, or permitted to be used was deceased 143  
at the time of the offense. 144

(H)(1) If ~~the~~ an offender commits a violation of division 145  
(B), (D), or (E) of this section and the violation occurs as part 146  
of a course of conduct involving other violations of division (B), 147  
(D), or (E) of this section or violations of, attempts to violate, 148  
conspiracies to violate, or complicity in violations of division 149  
(C) of this section or section 2913.02, 2913.04, 2913.11, 2913.21, 150  
2913.31, 2913.42, 2913.43, or 2921.13 of the Revised Code, the 151  
court, in determining the degree of the offense pursuant to 152  
division (I) of this section, may aggregate all credit, property, 153  
or services obtained or sought to be obtained by the offender and 154  
all debts or other legal obligations avoided or sought to be 155  
avoided by the offender in the violations involved in that course 156  
of conduct. The course of conduct may involve one victim or more 157  
than one victim. 158

(2) If ~~the~~ an offender commits a violation of division (C) of 159  
this section and the violation occurs as part of a course of 160  
conduct involving other violations of division (C) of this section 161  
or violations of, attempts to violate, conspiracies to violate, or 162  
complicity in violations of division (B), (D), or (E) of this 163  
section or section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 164  
2913.42, 2913.43, or 2921.13 of the Revised Code, the court, in 165  
determining the degree of the offense pursuant to division (I) of 166  
this section, may aggregate all credit, property, or services 167  
obtained or sought to be obtained by the person aided or abetted 168

and all debts or other legal obligations avoided or sought to be 169  
avoided by the person aided or abetted in the violations involved 170  
in that course of conduct. The course of conduct may involve one 171  
victim or more than one victim. 172

(I)(1) Whoever violates this section is guilty of identity 173  
fraud. ~~Except~~ 174

(2) Except as otherwise provided in this division or division 175  
(I)(3) of this section, identity fraud is a ~~misdemeanor~~ felony of 176  
the ~~first~~ fifth degree. If the value of the credit, property, 177  
services, debt, or other legal obligation involved in the 178  
violation or course of conduct is five hundred dollars or more and 179  
is less than five thousand dollars, ~~except as otherwise provided~~ 180  
in division (I)(3) of this section, identity fraud is a felony of 181  
the fourth degree. If the value of the credit, property, services, 182  
debt, or other legal obligation involved in the violation or 183  
course of conduct is five thousand dollars or more and is less 184  
than one hundred thousand dollars, ~~except as otherwise provided in~~ 185  
division (I)(3) of this section, identity fraud is a felony of the 186  
third degree. If the value of the credit, property, services, 187  
debt, or other legal obligation involved in the violation or 188  
course of conduct is one hundred thousand dollars or more, ~~except~~ 189  
as otherwise provided in division (I)(3) of this section, identity 190  
fraud is a felony of the second degree. 191

(3) If the victim of the offense is an elderly person or 192  
disabled adult, a violation of this section is identity fraud 193  
against an elderly person or disabled adult. Except as otherwise 194  
provided in this division, identity fraud against an elderly 195  
person or disabled adult is a felony of the fifth degree. If the 196  
value of the credit, property, services, debt, or other legal 197  
obligation involved in the violation or course of conduct is five 198  
hundred dollars or more and is less than five thousand dollars, 199  
identity fraud against an elderly person or disabled adult is a 200

felony of the third degree. If the value of the credit, property, 201  
services, debt, or other legal obligation involved in the 202  
violation or course of conduct is five thousand dollars or more 203  
and is less than one hundred thousand dollars, identity fraud 204  
against an elderly person or disabled adult is a felony of the 205  
second degree. If the value of the credit, property, services, 206  
debt, or other legal obligation involved in the violation or 207  
course of conduct is one hundred thousand dollars or more, 208  
identity fraud against an elderly person or disabled adult is a 209  
felony of the first degree. 210

**Section 2.** That existing section 2913.49 of the Revised Code 211  
is hereby repealed. 212