

1 SENATE JOINT RESOLUTION NO. 38

2 INTRODUCED BY COCCHIARELLA, JOE BALYEAT, GRIMES, LASLOVICH, LEWIS, ROUSH, SQUIRES,
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4 BY REQUEST OF THE SENATE BUSINESS, LABOR, AND ECONOMIC AFFAIRS STANDING
5 COMMITTEE
6

7 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF
8 MONTANA REQUESTING THE LEGISLATIVE COUNCIL TO DESIGNATE AN APPROPRIATE INTERIM
9 COMMITTEE OR DIRECT SUFFICIENT STAFF RESOURCES TO STUDY ISSUES RELATED TO IDENTITY
10 THEFT, INCLUDING JURISDICTIONAL ISSUES REGARDING FEDERAL AND STATE AUTHORITY, THE
11 PROSECUTION OF INTERNET CRIMES, THE ROLE OF CREDIT REPORTS AND CREDIT REPORTING
12 AGENCIES, THE ROLE OF EDUCATION FOR BUSINESSES AND CONSUMERS, VICTIM RESTITUTION,
13 SALES OF PERSONAL INFORMATION BY THIRD PARTIES AND DIRECT MARKETING FIRMS, AND OTHER
14 IDENTITY THEFT ISSUES RAISED DURING THE STUDY.
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16 WHEREAS, identity theft is increasing and affecting more Montanans, with a 2003 Federal Trade
17 Commission survey estimating between 9 million and 10 million identity theft cases over a 1-year period
18 nationwide, of which approximately 33,000 cases were estimated for Montana, with financial losses from identity
19 theft estimated at \$52.6 billion nationally in 2004 by the Federal Trade Commission, and with the unknown cost
20 of time spent in trying to prove, disprove, and rectify credit histories, which is complicated by a lack of
21 coordination that results in Montanans having trouble finding solutions to the myriad credit, financial, and social
22 repercussions of identity theft; and

23 WHEREAS, the increasing electronic compilation and linkage of data related to businesses and
24 individuals has created increased efficiencies as well as the opportunity for identity theft that can wreak havoc
25 on business and individual financial dealings; and

26 WHEREAS, the federal government and state governments seek to maintain a smoothly operating
27 financial system while preserving business and consumer rights to protect against the improper use of their
28 business or personal financial data; and

29 WHEREAS, disagreement exists regarding ownership of the information compiled on businesses and
30 individuals, which complicates the issues raised over inaccurate or stolen identity data and the sale of

1 information to third parties or direct marketing organizations; and

2 WHEREAS, the global nature of the Internet and the potential for electronic data to be shared worldwide
3 complicate jurisdictional authority over prosecution of identity theft and restitution for victims; and

4 WHEREAS, government documents, trade secrets, and medical records fall under myriad disclosure
5 or privacy laws, which further raises questions of coordination among these laws.

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7 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
8 THE STATE OF MONTANA:

9 That the Legislative Council be requested to designate an appropriate interim committee, pursuant to
10 section 5-5-217, MCA, or direct sufficient staff resources to study issues related to identity theft, including how
11 these issues are being handled at the federal level and in other states, and what public policy options the
12 Montana Legislature might consider in response.

13 BE IT FURTHER RESOLVED, that the study address the scope of authority for the state to regulate
14 access to and content of credit reports in cases of identity theft as well as the duties of credit bureaus related
15 to identity theft reports.

16 BE IT FURTHER RESOLVED, that the study address issues related to consumer protection and
17 prosecution related to identity theft as the theft involves direct marketing organizations and sales of identity theft
18 information to third parties.

19 BE IT FURTHER RESOLVED, that the study address criteria for businesses to use to protect information
20 that could be used against their Montana customers.

21 BE IT FURTHER RESOLVED, that the study address victim restitution and what processes might be
22 needed to address cross-jurisdictional authority for restitution and prosecution.

23 BE IT FURTHER RESOLVED, that the study propose consumer education and business education
24 measures and processes for protecting personal and business information, for dealing with promotional credit
25 offers or "live" credit cards that, if stolen, could impact a person's credit history, and for dealing with personal
26 and business identity theft.

27 BE IT FURTHER RESOLVED, that the study address the tools and training needed by law enforcement
28 and regulators and propose policies and budgets to address these issues.

29 BE IT FURTHER RESOLVED, that the study review the various types of government records and the
30 interaction between privacy and the right to know as these concepts affect the protection of identity, trade

1 secrets, medical records, and other information regulated by privacy laws.

2 BE IT FURTHER RESOLVED, that the study include legislators and interested parties to address these
3 issues and any other issues raised during the study.

4 BE IT FURTHER RESOLVED, that if the study is assigned to staff, any findings or conclusions be
5 presented to and reviewed by an appropriate committee designated by the Legislative Council.

6 BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review
7 requirements, be concluded prior to September 15, 2006.

8 BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions,
9 comments, or recommendations of the appropriate committee, be reported to the 60th Legislature.

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