

SJR 38 Victim Assistance Bill Draft Explanations

Prepared for September 11-12, 2006, Economic Affairs Committee meeting.

New provisions marked **NEW** (and in bold in bill draft).

Bill#	Section#	Provisions
8877 Victim assistance (yellow)	Section 1	1) Provides that 2 forms of ID to be provided to determine ID of victim, including driver's license or other photo ID, utility bill (<i>list of items similar to those used to register to vote</i>). 2) Law enforcement to provide one copy to victim, another copy to attorney general for ID theft passport. NEW - within 72 hours. Timeframe suggested by Sergeant Detective Brian Fulford of Kalispell Police Department, to allow for 3-day weekend complications. 3) Requires law enforcement to take complaint even if crime happened elsewhere. Allows referral to law enforcement where jurisdiction is suspected. 4) Requires cooperation with other law enforcement and investigation within its resources. Doesn't require cases to be listed for statistics.
	Section 2	Consumer access to information. Uses definition of information broker from HR 4127, a bill draft before Congress. NEW: this old section 2 has been removed after consultation with various parties.
	New Section 2 is old Section 3 – Identity Theft Passport (existing law – changes are underlined)	Revises existing law: -- to allow person who is a resident of Montana to file for an ID theft passport, even if victimized elsewhere. WA law: 9.35.020(5) In a proceeding under this section, the crime will be considered to have been committed in any locality where the person whose means of identification or financial information was appropriated resides, or in which any part of the offense took place, regardless of whether the defendant was ever actually in that locality. Subsection (1)(c): -- allows resident victimized elsewhere to apply directly to Department of Justice for ID theft passport, instead of going through law enforcement agency. -- allows copy of police report or other "substantial evidence of having filed a complaint" ✓ NEW: subsection (5) - specifies that an ID theft passport is the equivalent of a police report, etc., for proof of identity theft except for application for an ID theft passport. Recommended by Consumers Union because some federal law requires "police report" and if Montana law says ID theft passport is equivalent that may further help victim. ✓ NEW: subsection (6) - specifies that knowingly giving a false report to obtain an ID theft passport is subject to criminal penalties under the false swearing statute and revocation of passport. 45-7-203 is unsworn falsification to authorities, punishable by up to \$500 fine or jail of up to 6 months or both.

	<p>Section 3 (renumbered)</p> <p>Left this section, although this is probably covered by federal law under FCRA.</p>	<p>1) Requires block of information by consumer reporting agency that resulted from identity theft.</p> <p>2) Sets out consumer's process for requesting a block of information.</p> <p>3) Consumer reporting agency to provide information furnisher (3rd party) that police report has been filed, block is requested, and effective date of block.</p> <p>4) Allows consumer reporting agency not to block, for misrepresented facts, error, consumer's knowing possession of goods, etc. as result of blocked transaction.</p> <p>5) Process for letting consumer know if information not to be blocked.</p> <p>6) Requires law enforcement to provide copy of police report to consumer for use in blocking information.</p> <p><i>Washington has a block of information provision in RCW 19.182.160.</i></p>
	<p>NEW</p> <p>Section 4 (renumbered)</p>	<p>1) Victim may apply to court to expunge victim's own record if there are entries recorded because another person assumed the victims identity and that person was convicted of crimes (but using the victim's name).</p> <p>2) Requires ID theft passport and other documents to establish that convicted person was actually someone else.</p> <p>3) Court to send copy of expungement order to Department of Justice and department to expunge its relevant records.</p> <p>4) Requires insurance company to refund the additional premium charged because of a conviction upon expungement of record and notification of the expungement.</p> <p>5) Prohibits fee for court costs.</p> <p>6) Gives rulemaking authority to Department of Justice.</p> <p><i>WA law: 9.35.020(7) In a proceeding under this section in which a person's means of identification or financial information was used without that person's authorization, and when there has been a conviction, the sentencing court may issue such orders as are necessary to correct a public record that contains false information resulting from a violation of this section.</i></p>
	<p>Section 5. NEW</p>	<p>At request of insurance industry, separated reference to changes in insurance premium into a separate section for ease in codification in Title 33. Includes the term "verification". May need to add "by a court of law".</p>
	<p>Section 6</p>	<p>Codification, except for Section 5, in Title 46, chapter 24, part 2 - Services to Victim, Witness</p>
	<p>Still missing</p>	<ul style="list-style-type: none"> • Provision prohibiting collecting agencies from calling ID theft victims multiple times once they have been notified that a series of checks have been misappropriated or stolen. ✓<i>Hope to have this by meeting.</i> • Provisions enhancing criminal penalties ✓<i>Hope to have this by meeting.</i> • Provisions requiring entities to notify individual if the entity knows that an individual's ID is being misused. Apparently financial institutions are not allowed to address this by federal statute. ✓<i>Hope to have this by meeting.</i>