

Economic Affairs Interim Committee

Draft Work Plan for SJR 38-- The Identity Theft Study

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Summary

This Draft Work Plan for Senate Joint Resolution 38, a study of identity theft by the 2005-2006 Economic Affairs Interim Committee (EAIC), provides a list of topics to be addressed, a proposed schedule, and proposed deliverables.

I. Scope of Study

The Legislative Council on May 16, 2005, assigned Senate Joint Resolution No. 38, a study of identity theft, to the Economic Affairs Interim Committee (EAIC). The study follows up enactment of HB 732, introduced by Rep. Don Roberts. HB 732 addressed identity theft prevention related to credit card solicitations, responses, and changes of address as well as changes of address for telephone accounts. The legislation also provided regulations affecting computer security breaches and a definition of personal information. That definition, critical to framing identity theft, says personal information includes an individual's name, signature, address, or telephone number in combination with information that, if used inappropriately, could cause harm to the individual. A social security number is considered personal information in and of itself. The study also follows up enactment of HB 110, which provides an identity theft passport intended to help victims of identity theft verify their situation as they seek to offset the harms caused by identity theft.

The purpose of SJR 38 as requested by the Senate Business, Labor, and Economic Affairs Committee was to further study issues that had not been resolved in HB 732. The format for the study proposes a bottom-up analysis of issues, relying on stakeholders to frame their concerns. The EAIC then will choose among approaches for dealing with these concerns for legislation.

The following questions outline issues raised in SJR 38. A suggested EAIC activity accompanies each question as does a categorization of whether the issue involves prevention or restitution. Some of the activities overlap. Section II (below) shows the condensed activities in relation to a meeting schedule.

Issues as listed in legislation with related activity:

- 1) What is being done at the federal level and in other states regarding identity theft, the increasing types of identity theft, and the increasing number of victims?
- 2) What additional state policies are needed to prove, disprove, or obtain redress for ID theft?
- 3) What state policies or agreements, if any, are needed to deal with the multiple jurisdictions involved in regulating the sharing and storage of data and enforcing statutes against ID theft?
- 4) What policies would help to resolve any conflicts between preserving data transfer-related efficiencies in business and the potential for theft of business and individual information?
- 5) What policies are needed to address concerns regarding businesses that compile data and sell or provide it to third parties by individuals/businesses whose information is being compiled? In particular, who verifies data accuracy and what notification or opt ins/outs are necessary?
- 6) What kind of restitution should be available to victims? Who should provide it and how?
- 7) Are state policy revisions necessary to address protection of data in public records and to protect trade secrets and medical information?

(more)

8) What training and educational tools are needed by individuals, businesses, regulators, and law enforcement? What is the cost of providing these and what is the best funding method?

9) What criteria can business use to protect or destroy information that can be used against the business or the business's customers?

10) Are policies needed to distinguish between privacy and the right to know vis-a-vis ID theft?

II. Study Schedule

Initial activities on this study will include preparation by a stakeholder work group of information, focused on the above questions, that they consider important for the EAIC's consideration. An active interested persons group already formed during the 2005 legislative session to discuss issues related to HB 732. Staff has contacted persons who worked on HB 732 to determine if they are willing to work on a stakeholder's work group for SJR 38. This group includes representatives of financial services, the attorney general's office, the American Association of Retired Persons, the Direct Marketing Association, insurance groups, the legal community, the Montana Telecommunications Association and cellular telephone firms, and ID theft victims.

June to November	Stakeholder work group to divide into issue interest groups and develop information for presentations, including: --An overview of identity theft issues not resolved by HB 732 --Prevention issues --Victim assistance/restitution issues
November	Panel discussion providing overview of various constituent concerns (those not identified by HB 732)
February	Panel discussion on prevention, including privacy vs. right-to-know and how the government handles data storage and disposal, education, marketing, use of social security numbers
May	Panel discussion on victim assistance and restitution (possible joint meeting with Law and Justice?)
July	Stakeholders propose legislation for issue areas, based on reviews of other states' and federal legislation
September	EAIC review and adopt of legislation drafts/concepts.

III. Study deliverables and end products

Staff will work with the stakeholder work group to prepare background briefing papers for each aspect of identity theft as reflected in the proposed panel discussions. Staff will work with the work group to identify legislation in other states that is satisfactory to the majority of the work group and will work to identify concerns of those not satisfied with legislation in other states. Presentations to the committee will reflect all viewpoints. The final report will include recommendations for new legislation, if any, and revisions to existing statutes, if needed, along with a summary of stakeholders' concerns and preferences regarding identity theft legislation.

IV. Summary

The EAIC will work with interested persons to determine areas of most concern related to identity theft and to obtain background information on how these areas are being addressed in other jurisdictions or how the stakeholders think they should be addressed in Montana. Identity theft affects individuals and businesses and has implications for data protection and storage by the public sector. The work group will present a variety of issues to the EAIC along with proposals for bill drafts that either revise existing statutes or introduce new legislation to address the concerns raised by the work group.