HOUSE
RESEARCH
ORGANIZATION bill analysis   4/7/2009

HB 1282
McClendon, Riddle, Hodge, Vo
(CSHB 1282 by Vo)

SUBJECT: Penalty for theft of driver's licenses or personal identification certificates

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Gallego, Fletcher, Kent, Miklos, Pierson, Vaught, Vo

                  0 nays

                  4 absent — Christian, Hodge, Moody, Riddle

WITNESSES: (*On original version*:)
                  For — Joe Saldana, San Antonio Police Officers Association, Combined
                  Law Enforcement Associations of Texas; (*Registered but did not testify*:
                  Laura Andersen, San Antonio Police Department; Katrina Daniels, Office
                  of Bexar County District Attorney Susan D. Reed; Gary Tittle, on behalf
                  of Dallas Police Department Chief of Police David Kunkle)

                  Against — (*Registered but did not testify*: Samuel England, American
                  Civil Liberties Union of Texas)

                  On — Rhonda Fleming, Texas Department of Public Safety

BACKGROUND: Penal Code, sec. 31.03 makes theft an offense, with varying penalties
                  depending on the value of the property stolen. Under Sec. 31.03(e), theft
                  of stolen property with a value of between $50 and $500, or between $20
                  and $500 if the property was obtained via theft by check, is a Class B
                  misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000).

                  Penal Code, sec. 32.51 makes it a fraud offense to obtain, possess,
                  transfer, or use the identifying information of another person without the
                  person's consent or if the person is under 18 years of age or deceased, with
                  the intent to harm or defraud another. The penalty ranges from a state jail
                  penalty to a first degree felony, depending on the number of item
                  involved.

DIGEST: HB 1282 would make theft of a driver's license, commercial driver's
                  license, or state-issued personal identification certificate (ID) a Class B
                  misdemeanor.

The bill would take effect September 1, 2009, and apply only to offenses committed on or after that date.

SUPPORTERS
SAY:

By making theft of a driver's license or ID a specific offense, HB 1282 would enhance the ability of law enforcement to prosecute theft of a purse or wallet. Often, a license or ID is stolen along with a wallet or purse, and the value of the items must be proven to determine the level of offense. This may be difficult to prove or the value may not be enough to constitute a Class B or even Class C misdemeanor (maximum fine of $500). Theft of a license or ID would be easier to prove because it would not be based on the value of the items in the purse or wallet. The ability to arrest someone for this offense would make HB 1282 an effective deterrent.

The penalty that would be created by this bill is necessary because theft of a license or ID currently is not a separate offense. Such theft should be penalized because it can lead to other harmful acts, such as identity theft or enabling minors to enter bars or buy alcohol. In addition, the victim is burdened with having to notify credit agencies of the theft and gather the necessary documents to obtain a replacement license or ID.

HB 1282 would provide law enforcement an important tool to combat identity theft. The current fraud statute requires prosecutors to prove intent to harm or defraud. The lack of an intent requirement would make the theft easier to prosecute and deter identity theft.

OPPONENTS
SAY:

HB 1282 is unnecessary because theft of a license or ID already can be prosecuted under existing fraud and theft statutes. As a punishment-oriented enhancement, HB 1282 would not be an effective deterrent. Resources used to investigate and prosecute such offenses and potentially jail the offender might be diverted from other important programs, like improved probation and parole systems.

NOTES:

The committee substitute differs from the bill as filed by making the offense a Class B misdemeanor instead of a Class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000), as in the original bill.

The companion bill, SB 1951 by Zaffirini, has been referred to the Senate Criminal Justice Committee.