

SUBJECT: Prohibiting the use of personal ID information without effective consent

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 7 ayes — C. Turner, Hefner, Cain, Crockett, Lambert, Ordaz Perez,
Patterson

0 nays

2 absent — Shine, S. Thompson

WITNESSES: For — Mona Muro, Texas Council on Family Violence; (*Registered, but did not testify*: Ann Baddour, Texas Appleseed; Seetha Kulandaisamy, Texas Council on Family Violence)

Against — None

On — Carla Sanchez-Adams, Texas RioGrande Legal Aid, Inc.

BACKGROUND: Business and Commerce Code sec. 521.051(a) prohibits a person from obtaining, possessing, transferring, or using personal identifying information of another person without that person's consent and with the intention of obtaining a good, a service, insurance, an extension of credit, or any other thing of value in the other person's name.

Some have suggested a need to bring civil statute more in line with the Legislature's recent inclusion of situations involving a lack of effective consent in the criminal offense of identity theft.

DIGEST: HB 3529 would add lack of effective consent to the circumstances under which the possession or use of a person's identifying information for the obtaining of goods, services, insurance, credit, or other valuables under the person's name was prohibited.

Effective consent would include consent given by a person legally authorized to act on behalf of the person from whom consent was

required. Consent would not be effective if induced by force, threat, fraud, or coercion or if given by a person who by reason of youth, mental illness, or intellectual disability was known by the actor to be unable to make reasonable decisions.

The bill would take effect September 1, 2021, and would apply only to violations occurring on or after that date.