

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING THE CULPABLE MENTAL STATE FOR IDENTITY THEFT.

Prime Sponsors: Representative Barker

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Date Prepared: April 5, 2012

Summary of Amendments Made to the Bill After the 01/27/12 Legislative Council Staff Fiscal Note Was Prepared (Amended by the Judiciary Committee 02/03/12)

The House Judiciary Committee Report:

- Consolidates references to information or a device that is "that of another" without changing the meaning.
- Adds a new provision stating that the bill does not apply to the use or possession of information that complies with the following federal acts: the "Fair Credit Reporting Act", the "Fair and Accurate Credit Transactions Act", the "Driver's Privacy Protection Act", the "Gramm-Leach-Bliley Act", or the "Health Insurance Portability and Accountability Act".

These amendments do not alter the fiscal impact of the bill as indicated in the January 27, 2012, Legislative Council Staff Fiscal Note. Legislative Council Staff agrees with this assessment.

JBC Staff Concurrence with Legislative Council Staff Fiscal Note

Concurs **Does Not Concur** **Updated Analysis**

Amendments/Appropriation Status

The bill requires but does not contain an appropriation clause. Staff has prepared amendment **J.001** (attached) to add a provision appropriating the following amounts for FY 2012-13 through FY 2014-15 based on the fiscal impact identified in the Legislative Council Staff Fiscal Note dated January 27, 2012:

Summary of Amendment J.001				
Fiscal Year	Transfer From the General Fund to Capital Construction Fund	Appropriation From the Capital Construction Fund to the Corrections Expansion Reserve Fund	Appropriation From the General Fund to the Department of Corrections	Total General Fund Appropriation and Transfer
FY 2012-13	\$0	\$0	\$20,706	\$20,706
FY 2013-14	0	0	20,706	20,706
FY 2014-15	0	0	20,499	20,499
FY 2015-16	0	0	0	0
FY 2016-17	0	0	0	0
Total	\$0	\$0	\$61,911	\$61,911

Bill Sponsor Amendments

Staff is not aware of any sponsor amendments to be offered.

Points to Consider

1. This bill requires a total of \$61,911 in statutory appropriations from the General Fund to the Department of Corrections from FY 2012-13 through FY 2014-15, thereby reducing the amount of funds available for other purposes in each of those years.
2. The appropriation in J.001 corresponds to the Legislative Council Staff Fiscal Note, which reflects the new Legislative Council Staff policy regarding sentencing bills. Prior to 2009, fiscal notes included appropriations that covered both capital and operating costs for new beds based on the average costs of state-run prisons. Beginning in 2009, fiscal notes began incorporating costs associated with private prisons. The 2009 methodology used a prorated formula based on actual historical placement of prisoners between state-run facilities and private facilities. Thus, if a bill was expected to lead to three new people sentenced to the Department of Corrections, and two-thirds of offenders in that felony class had historically been housed in private prisons, the fiscal note would have shown costs reflecting the same placement (i.e., two offenders in private prison and one in a state facility, with capital and operating costs to match these placements.) Beginning in 2012, fiscal notes identify operating costs based on the private prison rate, instead of the blended rate used in previous years, and do not identify any need for capital construction costs. This assessment more accurately reflects the fact that fluctuations in the prison population in recent years have been accommodated through the use of private prisons. It also matches current budgeting policies of the General Assembly.