

HB 1252 -- Identity Theft

Sponsor: Cooper (158)

This bill defines "identity theft," "personal identifying information," and "victim of identity theft" and permits a person to bring a legal action against a claimant to establish that he or she is a victim of identity theft in connection with the claimant's claim against that person. If successful, the person will be entitled to:

- (1) A declaration that he or she is not obligated to the claimant on that claim;
- (2) A declaration that any interest the claimant had purportedly obtained in the victim's property is void and undefendable;
- (3) An injunction restraining the claimant from collecting or attempting to collect the claim, enforcing or attempting to enforce any interest, or enforcing or executing on any judgment from or against the victim on that claim;
- (4) The dismissal of any action filed by the claimant based on a claim which arose as a result of the identity theft;
- (5) Actual damages, attorney fees, costs, and any equitable relief that the court deems appropriate; and
- (6) A civil penalty of up to \$30,000 if the victim establishes that the claimant received written notice at least 30 days prior to filing an action that a situation of identity theft might exist, the claimant failed to investigate the possible identity theft, and the claimant continued to pursue his or her claim against the victim.

These claims must be filed within four years of the date the person who alleges that he or she is a victim of identity theft knew or, in the exercise of reasonable diligence, should have known of the existence of facts which would bring about the action.