

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 388

(Senator Kelley, *et al.*)

Judicial Proceedings

Victims of Crime - Identity Theft Passport - Children

This bill requires the Department of Human Resources (DHR) to assist a child who has been identified as a victim of identity fraud in applying for an identity theft passport if the child is in foster care, group care, or kinship care and in the care and custody of DHR. If a child has been identified as a victim of identity fraud and placed in the care and custody of the Department of Juvenile Services (DJS), DJS must assist the child in applying for an identity theft passport.

Fiscal Summary

State Effect: DHR and DJS can handle the bill's requirements using existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A person who knows or reasonably suspects that they have been the victim of identity fraud and has filed a police report may apply for an identity theft passport through a law enforcement agency. The law enforcement agency must submit the application and a copy of the police report to the Attorney General for processing and the issuance of an identity theft passport.

The Attorney General, in cooperation with a law enforcement agency, may issue an identity theft passport to a person who is a victim of identity fraud. The Attorney General must complete a background check of the applicant before issuing the identity theft passport.

A person who is issued an identity theft passport may present the identity theft passport to a law enforcement agency to help prevent arrest or detention for an offense committed by another person using the passport owner's personal identifying information. A passport may also be presented to a creditor to aid the investigation of a fraudulent account that is opened in the passport owner's name or a fraudulent charge that is made against an account held by the passport owner.

The law enforcement agency or creditor has sole discretion to accept or reject an identity theft passport. In determining whether to accept or reject the passport, the law enforcement agency or creditor may consider the circumstances and available information regarding the offense of identity fraud against the passport owner.

An application for an identity theft passport and any supporting documentation is not a public record and may not be released, except to a law enforcement agency in this or another state.

Foster care means continuous 24-hour care and supportive services provided for a minor child placed by a child placement agency in an approved family home. Group care means continuous 24-hour care and supportive services provided for a minor child placed in a licensed group facility. Kinship care means continuous 24-hour care and supportive services provided for a minor child placed by a child placement agency in the home of a relative related by blood or marriage within the fifth degree of consanguinity or affinity.

Background: The Federal Trade Commission has noted that personal information for children in foster care is often circulated widely within schools and social services networks, which leaves the children particularly vulnerable to identity theft. According to the Children's Law Center of Minnesota, the children may become victims at the hands of their foster care providers or family members who still have access to their personal information. These children often have no knowledge that they are victims of identity theft until they are adults and age out of the foster care system excited to start an independent life, only to find that they are unable to secure a car loan, an apartment lease, or a student loan through no fault of their own.

In an attempt to address this issue, the federal Child and Family Services Improvement Act requires that every foster child who has reached age 16 must receive a free consumer report each year until the child is discharged from care. The children must also receive assistance in interpreting and resolving any inaccuracies within the report.

The California Office of Privacy Protection conducted a year-long study of the credit of 2,110 foster youth ages 16 and 17 in Los Angeles County. The credit checks revealed that 104 of these children had discrepancies in their reports. According to officials, the children had 247 accounts that could have caused them problems in the future. The

average account balance was \$1,810; however, one child had a home loan of \$217,000 taken out in the child's name. In some cases, simple error was to blame for the credit report discrepancies.

Additional Information

Prior Introductions: None.

Cross File: HB 1125 (Delegate Wilson, *et al.*) - Judiciary.

Information Source(s): Department of Human Resources, Department of Juvenile Services, Federal Trade Commission, Children's Law Center of Minnesota, *U.S. News and World Report*, *California Bar Journal*, GPO.gov, Wisconsin Department of Children and Families, Yahoo! News, National Resource Center for Youth Development, California Office of Privacy Protection, Department of Legislative Services

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