

Crimes and Criminal Procedure—DNA Testing, Felony Murder, Computer Crimes, and Identity Theft and Identity Fraud; HB 2093

HB 2093 amends the law concerning crimes and criminal procedure, on topics including DNA testing, felony murder, computer crimes, and identity theft and identity fraud.

DNA Testing

The bill amends the statute allowing a person convicted of first-degree murder or rape to petition the court for forensic DNA testing of certain biological material. Specifically, in the provision addressing the duties of the court when the results of such testing “are favorable to the petitioner,” the bill adds that the results “are of such materiality that a reasonable probability exists the new evidence would result in a different outcome at trial or sentencing.”

Felony Murder

The bill amends the law concerning felony murder to specify:

- Felony murder is an alternative method of proving first degree murder;
- Provisions allowing for prosecution of more than one crime and governing lesser included crimes do not apply to felony murder;
- Felony murder is not a separate crime or a lesser included offense of first degree murder or capital murder; and
- Felony murder has no lesser included offenses.

The bill also states these amendments establish a procedural rule for the conduct of criminal prosecutions and shall be construed and applied retroactively to all cases currently pending.

Computer Crimes, Identity Theft, and Identity Fraud

The bill amends statutes concerning computer crimes and the definitions of the crimes of identity theft and identity fraud. The bill makes it unlawful for any person to knowingly and without authorization to disclose a number, code, password, or other means of access to a social networking website or personal electronic content. It also is unlawful for any person to knowingly and without authorization access or attempt to access any social networking website. Commission of these acts is a class A nonperson misdemeanor. Further, the bill increases the severity level from a level 8, nonperson felony to a level 5, nonperson felony for certain computer crimes where the monetary loss to the victim is more than \$100,000.

The bill amends the definition of the crime of identity theft to include obtaining, possessing, transferring, using, selling, or purchasing any personal identifying information, or document containing the same, belonging to or issued to another person with intent to misrepresent that person in order to subject that person to economic or bodily harm. Commission of such acts is a severity level 8, nonperson felony, except where monetary loss to the victim is more than \$100,000, in which case it will be a severity level 5, nonperson felony.

Additionally, the bill amends the definition of “personal identifying information,” which appears in the definitions of identity theft and identity fraud, to include passwords, usernames, or other log-in information that can be used to access a person’s personal electronic content, including, but not limited to, content stored on a social networking website. The bill includes definitions for “personal electronic content” and “social networking website.”