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FLOOR DEBATE

March 13, 2002 LB 276

SENATOR BRASHEAR: Mr. Chairman, members of the body, the committee amendment retains most of the original bill but it does amend the bill into the current statute, Neb. Rev. Stat. 28-806, that prohibits criminal impersonation. As Senator Redfield attests, in many regards identity theft is a modern version of criminal impersonation, and your Judiciary Committee felt it best that we update our current statute with Senator Redfield's work. Committee also made a number of drafting changes to the bill, but all of those drafting changes maintain and further the ultimate purpose and objective of the bill. The definition of personal identification document and personal identifying information, those two definitions are narrowed slightly to eliminate the phrase "including but not limited to" as such phraseology has a potential to be speculative and expansive, and therefore, vague and not appropriate in a criminal statute. The general rule of statutory construction is that a criminal statute must specify exactly what is prohibited and not leave matters open for debate and differing interpretation. The change is merely a tightening of the statutory language and is meant to be technical and formal. The provision of the bill pertaining to the civil remedies afforded victims is amended by inserting a reference to the current statutes that provide rules and procedures for orders of restitution, namely, Neb. Rev. Stat. 29-2280 and 29-2289, inclusive. LB 276, in its original form, provided numerous items of loss for victims of identity theft to recover. Those matters are the types of items that are proven, under current law, at a restitution hearing. As the current restitution process is a process familiar to our courts and our prosecutors, the committee thought it best to provide that the victims of identity theft utilize the current restitution process. An overview of restitution is important, I think, for the record. Restitution can be ordered by a criminal court to compensate a victim for the financial loss suffered by the defendant's commission of a crime. The state, as prosecutor, pursues the order of restitution and the victim acts as witness and as recipient in the event of any order of restitution and payments thereunder. The order of restitution becomes part of the order of the criminal court, and as such can become a part of any order of probation or parole. The amendment also