

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

No. 945 Session of  
1999

INTRODUCED BY CHADWICK, ARGALL, BAKER, BARD, BELFANTI,  
BENNINGHOFF, BROWNE, BUXTON, CASORIO, CIVERA, CLARK,  
L. I. COHEN, COLAFELLA, CURRY, DEMPSEY, DERMODY, EGOLF,  
FAIRCHILD, FEESE, GANNON, GORDNER, HARHAI, HENNESSEY, HESS,  
JADLOWIEC, KAISER, KENNEY, LUCYK, MAHER, MANDERINO, MASLAND,  
McCALL, McILHINNEY, McNAUGHTON, MELIO, MICHLOVIC, MUNDY,  
NAILOR, NICKOL, PHILLIPS, RAMOS, ROBINSON, ROONEY, ROSS,  
RUBLEY, SAINATO, SANTONI, SATHER, SAYLOR, SCHRODER, SEMMEL,  
SERAFINI, SEYFERT, B. SMITH, STABACK, STEELMAN, STEIL, STERN,  
STEVENSON, E. Z. TAYLOR, THOMAS, TIGUE, TRELLO, TRICH, VANCE,  
WILLIAMS, WOGAN, GRUCELA, FARGO AND WASHINGTON,  
MARCH 22, 1999

SENATOR GREENLEAF, JUDICIARY, IN SENATE, AS AMENDED,  
MARCH 14, 2000

AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, defining the offense of identity  
3 theft.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Title 18 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a section to read:

8 § 4120. Identity theft.

9 ~~(a) Offense defined. Except as provided in subsection (c),~~ <—  
10 ~~a person commits the offense of identity theft of another~~  
11 ~~person, a misdemeanor of the first degree, if he takes, assumes~~  
12 ~~or uses the identity or identifying information of another~~

~~person without the consent of that other person and with the intent to:~~

~~(1) cause financial loss to the other person;~~

~~(2) obtain goods or services; or~~

~~(3) otherwise assume or use the other person's identity for any unlawful purpose.~~

~~(b) Separate offenses. Each time an offender takes, assumes or uses the identity or identifying information of another person without the consent of that other person constitutes a separate offense under this section.~~

~~(c) Grading. When a person commits an offense under subsection (a) and the victim of the offense is 60 years of age or older, the offense shall be graded as a felony of the third degree.~~

~~(d) Restitution. The court may, in addition to any other restitution sentence or order authorized by law, sentence a person convicted of violating this section to make restitution for all reasonable expenses incurred by the victim or on the victim's behalf to investigate theft of the victim's identity, bring or defend civil or criminal actions related to theft of the victim's identity or to take other efforts to clear the victim's credit record of negative credit reports related to theft of the victim's identity. Such expenses may include, but are not limited to, attorney fees, fees and costs imposed by credit bureaus or associated with efforts to clear the victim's credit record, fees and costs associated with private investigations, and court costs and filing fees.~~

~~(e) Definitions. As used in this section, the following words and phrases shall have the meanings given to them in this subsection:~~

~~"Expenses." All sums charged or billed to the victim or any person acting on the victim's behalf or as the victim's representative, whether or not any such charge or bill has been paid.~~

~~"Identity" or "identifying information." Any information or facts used to establish identity, whether or not the information or facts are in writing. Writings include, but are not limited to, pieces of paper, notebooks, applications, receipts, birth certificates, Social Security cards, driver's licenses, nondriver State issued identification cards, baptismal certificates, employee identification cards or school identification cards and identifying information recorded by other methods, including, but not limited to, information stored on any computer, computer disc, computer printout, computer system, or part thereof, or by any other mechanical or electronic means.~~

~~Section 2. This act shall take effect immediately.~~

~~(A) OFFENSE DEFINED.--A PERSON COMMITS THE OFFENSE OF IDENTITY THEFT OF ANOTHER PERSON IF HE POSSESSES OR USES IDENTIFYING INFORMATION OF ANOTHER PERSON WITHOUT THE CONSENT OF THAT OTHER PERSON TO FURTHER ANY UNLAWFUL PURPOSE.~~

~~(B) SEPARATE OFFENSES.--EACH TIME A PERSON POSSESSES OR USES IDENTIFYING INFORMATION IN VIOLATION OF SUBSECTION (A) CONSTITUTES A SEPARATE OFFENSE UNDER THIS SECTION.~~

~~(C) GRADING.--THE OFFENSES SHALL BE GRADED AS FOLLOWS:~~

~~(1) A FIRST OFFENSE UNDER THIS SECTION IS A MISDEMEANOR OF THE FIRST DEGREE, AND A SECOND AND SUBSEQUENT OFFENSE UNDER THIS SECTION IS A FELONY OF THE THIRD DEGREE.~~

~~(2) WHEN A PERSON COMMITS AN OFFENSE UNDER SUBSECTION (A) AND THE VICTIM OF THE OFFENSE IS 60 YEARS OF AGE OR~~

1 OLDER, THE GRADING OF THE OFFENSE SHALL BE ONE GRADE HIGHER  
2 THAN SPECIFIED IN PARAGRAPH (1).

3 (D) CONCURRENT JURISDICTION TO PROSECUTE.--IN ADDITION TO  
4 THE AUTHORITY CONFERRED UPON THE ATTORNEY GENERAL BY THE ACT OF  
5 OCTOBER 15, 1980 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH  
6 ATTORNEYS ACT, THE ATTORNEY GENERAL SHALL HAVE THE AUTHORITY TO  
7 INVESTIGATE AND TO INSTITUTE CRIMINAL PROCEEDINGS FOR ANY  
8 VIOLATION OF THIS SECTION OR ANY SERIES OF SUCH VIOLATIONS  
9 INVOLVING MORE THAN ONE COUNTY OF THIS COMMONWEALTH OR ANOTHER  
10 STATE. NO PERSON CHARGED WITH A VIOLATION OF THIS SECTION BY THE  
11 ATTORNEY GENERAL SHALL HAVE STANDING TO CHALLENGE THE AUTHORITY  
12 OF THE ATTORNEY GENERAL TO INVESTIGATE OR PROSECUTE THE CASE,  
13 AND, IF ANY SUCH CHALLENGE IS MADE, THE CHALLENGE SHALL BE  
14 DISMISSED AND NO RELIEF SHALL BE MADE AVAILABLE IN THE COURTS OF  
15 THIS COMMONWEALTH TO THE PERSON MAKING THE CHALLENGE.

16 (E) USE OF POLICE REPORTS.--A REPORT TO A LAW ENFORCEMENT  
17 AGENCY BY A PERSON STATING THAT THE PERSON'S IDENTIFYING  
18 INFORMATION HAS BEEN LOST OR STOLEN OR THAT THE PERSON'S  
19 IDENTIFYING INFORMATION HAS BEEN USED WITHOUT THE PERSON'S  
20 CONSENT SHALL BE PRIMA FACIE EVIDENCE THAT THE IDENTIFYING  
21 INFORMATION WAS POSSESSED OR USED WITHOUT THE PERSON'S CONSENT.

22 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING  
23 WORDS AND PHRASES SHALL HAVE THE MEANING GIVEN TO THEM IN THIS  
24 SUBSECTION:

25 "DOCUMENT." ANY WRITING, INCLUDING, BUT NOT LIMITED TO,  
26 BIRTH CERTIFICATE, SOCIAL SECURITY CARD, DRIVER'S LICENSE,  
27 NONDRIVER GOVERNMENT-ISSUED IDENTIFICATION CARD, BAPTISMAL  
28 CERTIFICATE, ACCESS DEVICE CARD, EMPLOYEE IDENTIFICATION CARD,  
29 SCHOOL IDENTIFICATION CARD OR OTHER IDENTIFYING INFORMATION  
30 RECORDED BY ANY OTHER METHOD, INCLUDING, BUT NOT LIMITED TO,

1 INFORMATION STORED ON ANY COMPUTER, COMPUTER DISC, COMPUTER  
2 PRINTOUT, COMPUTER SYSTEM, OR PART THEREOF, OR BY ANY OTHER  
3 MECHANICAL OR ELECTRONIC MEANS.

4 "IDENTIFYING INFORMATION." ANY DOCUMENT, PHOTOGRAPHIC,  
5 PICTORIAL OR COMPUTER IMAGE OF ANOTHER PERSON, OR ANY FACT USED  
6 TO ESTABLISH IDENTITY, INCLUDING, BUT NOT LIMITED TO, A NAME,  
7 BIRTH DATE, SOCIAL SECURITY NUMBER, DRIVER'S LICENSE NUMBER,  
8 NONDRIVER GOVERNMENTAL IDENTIFICATION NUMBER, STUDENT  
9 IDENTIFICATION NUMBER OR EMPLOYEE OR PAYROLL NUMBER.

10 SECTION 2. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.