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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 849 Session of  
1999

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INTRODUCED BY GREENLEAF, O'PAKE, HART, BOSCOLA, COSTA, HOLL,  
ROBBINS, SALVATORE, SCHWARTZ AND SLOCUM, APRIL 27, 1999

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SENATE AMENDMENTS TO HOUSE AMENDMENTS, JUNE 13, 2000

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AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the  
2 Pennsylvania Consolidated Statutes, providing for ~~restitution~~ <—  
3 ~~for identity theft~~ AND FOR THE USE OF IGNITION INTERLOCK <—  
4 SYSTEMS AND FOR RESTITUTION FOR IDENTITY THEFT. <—

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

7 ~~Section 1. Title 42 of the Pennsylvania Consolidated~~ <—  
8 ~~Statutes is amended by adding a section to read:~~

9 ~~§ 9720.1. Restitution for identity theft.~~

10 ~~(a) General rule. The court may, in addition to any other~~  
11 ~~restitution sentence or order authorized by law, sentence a~~  
12 ~~person convicted of the offense of identity theft of another~~ <—

13 ~~person A VIOLATION OF 18 PA.C.S. § 4120 (RELATING TO IDENTITY~~ <—  
14 ~~THEFT) to make restitution for all reasonable expenses incurred~~  
15 ~~by the victim or on the victim's behalf:~~

16 ~~(1) to investigate theft of the victim's identity;~~

17 ~~(2) to bring or defend civil or criminal actions related~~  
18 ~~to theft of the victim's identity; or~~

1 ~~(3) to take other efforts to correct the victim's credit~~  
2 ~~record or negative credit reports related to theft of the~~  
3 ~~victim's identity.~~

4 ~~(b) Types of expenses. The types of expenses that may be~~  
5 ~~recoverable under this section include, but are not limited to:~~

6 ~~(1) attorney fees;~~

7 ~~(2) fees and costs imposed by credit bureaus, associated~~  
8 ~~with efforts to correct the victim's credit record or~~  
9 ~~incurred in private investigations; and~~

10 ~~(3) court costs and filing fees.~~

11 ~~regardless of whether the expenses are charged or billed to the~~ <—  
12 ~~victim or any person acting on the victim's behalf or as the~~  
13 ~~victim's representative and regardless of whether any such~~  
14 ~~expense has been paid.~~

15 Section 2. This act shall take effect in 60 days.

16 SECTION 2. TITLE 42 IS AMENDED BY ADDING A CHAPTER TO READ: <—

17 SECTION 1. TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED <—

18 STATUTES IS AMENDED BY ADDING A CHAPTER TO READ:

19 CHAPTER 70

20 IGNITION INTERLOCK DEVICES

21 SEC.

22 7001. DEFINITIONS.

23 7002. IGNITION INTERLOCK SYSTEMS FOR DRIVING UNDER THE  
24 INFLUENCE.

25 7003. ADDITIONAL DRIVER'S LICENSE RESTORATION REQUIREMENTS.

26 § 7001. DEFINITIONS.

27 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER  
28 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
29 CONTEXT CLEARLY INDICATES OTHERWISE:

30 "DEPARTMENT." THE DEPARTMENT OF TRANSPORTATION OF THE

1 COMMONWEALTH.

2 "IGNITION INTERLOCK SYSTEM." A SYSTEM APPROVED BY THE  
3 DEPARTMENT THAT PREVENTS A VEHICLE FROM BEING STARTED OR  
4 OPERATED UNLESS THE OPERATOR FIRST PROVIDES A BREATH SAMPLE  
5 INDICATING THAT THE OPERATOR HAS AN ALCOHOL LEVEL OF LESS THAN  
6 .025%.

7 § 7002. IGNITION INTERLOCK SYSTEMS FOR DRIVING UNDER THE  
8 INFLUENCE.

9 (A) FIRST OFFENSE.--IN ADDITION TO ANY OTHER REQUIREMENTS  
10 IMPOSED BY THE COURT, WHERE A PERSON HAS BEEN CONVICTED FOR A  
11 FIRST OFFENSE UNDER 75 PA.C.S. § 3731 (RELATING TO DRIVING UNDER  
12 THE INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE), THE COURT MAY  
13 ORDER THE INSTALLATION OF AN APPROVED IGNITION INTERLOCK SYSTEM  
14 ON EACH MOTOR VEHICLE OWNED BY THE PERSON TO BE EFFECTIVE UPON  
15 THE RESTORATION OF OPERATING PRIVILEGES BY THE DEPARTMENT. A  
16 RECORD SHALL BE SUBMITTED TO THE DEPARTMENT WHEN THE COURT HAS  
17 ORDERED THE INSTALLATION OF AN APPROVED INTERLOCK IGNITION  
18 DEVICE. BEFORE THE DEPARTMENT MAY RESTORE SUCH PERSON'S  
19 OPERATING PRIVILEGE, THE DEPARTMENT MUST RECEIVE A CERTIFICATION  
20 FROM THE COURT THAT THE IGNITION INTERLOCK SYSTEM HAS BEEN  
21 INSTALLED.

22 (B) SECOND OR SUBSEQUENT OFFENSE.--IN ADDITION TO ANY OTHER  
23 REQUIREMENTS IMPOSED BY THE COURT, WHERE A PERSON HAS BEEN  
24 CONVICTED OF A SECOND OR SUBSEQUENT VIOLATION OF 75 PA.C.S. §  
25 3731, THE COURT SHALL ORDER THE INSTALLATION OF AN APPROVED  
26 IGNITION INTERLOCK DEVICE ON EACH MOTOR VEHICLE OWNED BY THE  
27 PERSON TO BE EFFECTIVE UPON THE RESTORATION OF OPERATING  
28 PRIVILEGES BY THE DEPARTMENT. A RECORD SHALL BE SUBMITTED TO THE  
29 DEPARTMENT WHEN THE COURT HAS ORDERED THE INSTALLATION OF AN  
30 APPROVED INTERLOCK IGNITION DEVICE. BEFORE THE DEPARTMENT MAY

1 RESTORE SUCH PERSON'S OPERATING PRIVILEGE, THE DEPARTMENT MUST  
2 RECEIVE A CERTIFICATION FROM THE COURT THAT THE IGNITION  
3 INTERLOCK SYSTEM HAS BEEN INSTALLED.

4 (C) ALTERNATIVE DISPOSITION.--FOR THE PURPOSE OF THIS  
5 SECTION, ACCEPTANCE OF ACCELERATED REHABILITATIVE DISPOSITION,  
6 AN ADJUDICATION OF DELINQUENCY OR A CONSENT DECREE UNDER CHAPTER  
7 63 (RELATING TO JUVENILE MATTERS), OR ANY OTHER FORM OF  
8 PRELIMINARY DISPOSITION OF ANY CHARGE BROUGHT UNDER 75 PA.C.S. §  
9 3731 SHALL BE CONSIDERED A FIRST CONVICTION.

10 (D) DEPARTMENT APPROVAL.--AN IGNITION INTERLOCK SYSTEM  
11 REQUIRED TO BE INSTALLED UNDER THIS SECTION MUST BE A SYSTEM  
12 WHICH HAS BEEN APPROVED BY THE DEPARTMENT. THE DEPARTMENT'S  
13 APPROVAL OF IGNITION INTERLOCK SYSTEMS SHALL BE PUBLISHED IN THE  
14 PENNSYLVANIA BULLETIN.

15 § 7003. ADDITIONAL DRIVER'S LICENSE RESTORATION REQUIREMENTS.

16 IN ADDITION TO ANY OTHER REQUIREMENTS ESTABLISHED FOR THE  
17 RESTORATION OF A PERSON'S OPERATING PRIVILEGES UNDER 75 PA.C.S.  
18 § 1548 (RELATING TO REQUIREMENTS FOR DRIVING UNDER INFLUENCE  
19 OFFENDERS):

20 (1) WHERE A PERSON'S OPERATING PRIVILEGES ARE SUSPENDED  
21 FOR A SECOND OR SUBSEQUENT VIOLATION OF 75 PA.C.S. § 3731  
22 (RELATING TO DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED  
23 SUBSTANCE), OR A SIMILAR OUT-OF-STATE OFFENSE, AND THE PERSON  
24 SEEKS A RESTORATION OF OPERATING PRIVILEGES, THE COURT SHALL  
25 CERTIFY TO THE DEPARTMENT THAT EACH MOTOR VEHICLE OWNED BY  
26 THE PERSON HAS BEEN EQUIPPED WITH AN APPROVED IGNITION  
27 INTERLOCK SYSTEM.

28 (2) A PERSON SEEKING RESTORATION OF OPERATING PRIVILEGES  
29 SHALL APPLY TO THE DEPARTMENT FOR AN IGNITION INTERLOCK  
30 RESTRICTED LICENSE UNDER 75 PA.C.S. § 1951(D) (RELATING TO

1 DRIVER'S LICENSE AND LEARNER'S PERMIT) WHICH WILL BE CLEARLY  
2 MARKED TO RESTRICT THE PERSON TO OPERATING ONLY MOTOR  
3 VEHICLES EQUIPPED WITH AN APPROVED INTERLOCK IGNITION SYSTEM.

4 (3) DURING THE YEAR IMMEDIATELY FOLLOWING RESTORATION OF  
5 THE PERSON'S OPERATING PRIVILEGE, AND THEREAFTER UNTIL THE  
6 PERSON OBTAINS AN UNRESTRICTED LICENSE, THE PERSON SHALL NOT  
7 OPERATE ANY MOTOR VEHICLE ON A HIGHWAY WITHIN THIS  
8 COMMONWEALTH UNLESS THE MOTOR VEHICLE IS EQUIPPED WITH AN  
9 APPROVED IGNITION INTERLOCK SYSTEM.

10 (4) ONE YEAR FROM THE DATE OF ISSUANCE OF AN IGNITION  
11 INTERLOCK RESTRICTED LICENSE UNDER THIS SECTION, IF OTHERWISE  
12 ELIGIBLE, A PERSON MAY APPLY FOR AN ADDITIONAL REPLACEMENT  
13 LICENSE UNDER 75 PA.C.S. § 1951(D) THAT DOES NOT CONTAIN THE  
14 IGNITION INTERLOCK SYSTEM RESTRICTION.

15 (5) A PERSON WHOSE OPERATING PRIVILEGE IS SUSPENDED FOR  
16 A SECOND OR SUBSEQUENT VIOLATION OF 75 PA.C.S. § 3731 OR A  
17 SIMILAR OUT-OF-STATE OFFENSE, WHO DOES NOT APPLY FOR AN  
18 IGNITION INTERLOCK RESTRICTED LICENSE, SHALL NOT BE ELIGIBLE  
19 TO APPLY FOR THE RESTORATION OF OPERATING PRIVILEGES FOR AN  
20 ADDITIONAL YEAR AFTER OTHERWISE BEING ELIGIBLE FOR  
21 RESTORATION UNDER PARAGRAPH (1).

22 SECTION 2. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ: <—

23 § 9720.1. RESTITUTION FOR IDENTITY THEFT.

24 (A) GENERAL RULE.--THE COURT MAY, IN ADDITION TO ANY OTHER  
25 RESTITUTION SENTENCE OR ORDER AUTHORIZED BY LAW, SENTENCE A  
26 PERSON CONVICTED OF A VIOLATION OF 18 PA.C.S. § 4120 (RELATING  
27 TO IDENTITY THEFT) TO MAKE RESTITUTION FOR ALL REASONABLE  
28 EXPENSES INCURRED BY THE VICTIM OR ON THE VICTIM'S BEHALF:

29 (1) TO INVESTIGATE THEFT OF THE VICTIM'S IDENTITY;

30 (2) TO BRING OR DEFEND CIVIL OR CRIMINAL ACTIONS RELATED

1 TO THEFT OF THE VICTIM'S IDENTITY; OR

2 (3) TO TAKE OTHER EFFORTS TO CORRECT THE VICTIM'S CREDIT  
3 RECORD OR NEGATIVE CREDIT REPORTS RELATED TO THEFT OF THE  
4 VICTIM'S IDENTITY.

5 (B) TYPES OF EXPENSES.--THE TYPES OF EXPENSES THAT MAY BE  
6 RECOVERABLE UNDER THIS SECTION INCLUDE, BUT ARE NOT LIMITED TO:

7 (1) ATTORNEY FEES;

8 (2) FEES AND COSTS IMPOSED BY CREDIT BUREAUS, ASSOCIATED  
9 WITH EFFORTS TO CORRECT THE VICTIM'S CREDIT RECORD OR  
10 INCURRED IN PRIVATE INVESTIGATIONS; AND

11 (3) COURT COSTS AND FILING FEES.

12 SECTION 3. THE PROVISIONS OF ~~75~~ 42 PA.C.S. CH. 70 SHALL <—  
13 APPLY TO ALL PERSONS CONVICTED OF A SECOND OR SUBSEQUENT  
14 VIOLATION OF 75 PA.C.S. § 3731 ON OR AFTER THE EFFECTIVE DATE OF  
15 THIS SECTION. NOTHING IN THIS ACT SHALL PROHIBIT A COURT FROM  
16 IMPOSING ITS OWN IGNITION INTERLOCK REQUIREMENTS FOR FIRST  
17 OFFENDERS PRIOR TO SEPTEMBER 30, 2001.

18 SECTION 4. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

19 (1) ~~75~~ THE PROVISIONS OF 42 PA.C.S. § 9720.1 SHALL TAKE <—  
20 EFFECT JULY 21, 2000.

21 (2) ~~75~~ THE PROVISIONS OF 42 PA.C.S. § 7002(A) SHALL TAKE <—  
22 EFFECT SEPTEMBER 30, 2001.

23 (3) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

24 (4) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
25 SEPTEMBER 30, 2000, OR IMMEDIATELY, WHICHEVER IS LATER.