

1 AN ACT in relation to identity theft.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Criminal Code of 1961 is amended by adding
5 Section 16G-30 as follows:

6 (720 ILCS 5/16G-30 new)

7 Sec. 16G-30. Mandating law enforcement agencies to accept
8 and provide reports; judicial factual determination.

9 (a) A person who has learned or reasonably suspects that
10 his or her personal identifying information has been
11 unlawfully used by another may initiate a law enforcement
12 investigation by contacting the local law enforcement agency
13 that has jurisdiction over his or her actual residence, which
14 shall take a police report of the matter, provide the
15 complainant with a copy of that report, and begin an
16 investigation of the facts or, if the suspected crime was
17 committed in a different jurisdiction, refer the matter to
18 the law enforcement agency where the suspected crime was
19 committed for an investigation of the facts.

20 (b) A person who reasonably believes that he or she is
21 the victim of financial identity theft may petition a court,
22 or the court, on its own motion or upon application of the
23 prosecuting attorney, may move for an expedited judicial
24 determination of his or her factual innocence, where the
25 perpetrator of the financial identity theft was arrested for,
26 cited for, or convicted of a crime under the victim's
27 identity, or where a criminal complaint has been filed
28 against the perpetrator in the victim's name, or where the
29 victim's identity has been mistakenly associated with a
30 criminal conviction. Any judicial determination of factual
31 innocence made pursuant to this subsection (b) may be heard

1 and determined upon declarations, affidavits, police reports,
2 or other material, relevant, and reliable information
3 submitted by the parties or ordered to be part of the record
4 by the court. If the court determines that the petition or
5 motion is meritorious and that there is no reasonable cause
6 to believe that the victim committed the offense for which
7 the perpetrator of the identity theft was arrested, cited,
8 convicted, or subject to a criminal complaint in the victim's
9 name, or that the victim's identity has been mistakenly
10 associated with a record of criminal conviction, the court
11 shall find the victim factually innocent of that offense. If
12 the victim is found factually innocent, the court shall issue
13 an order certifying this determination.

14 (c) After a court has issued a determination of factual
15 innocence under this Section, the court may order the name
16 and associated personal identifying information contained in
17 the court records, files, and indexes accessible by the
18 public sealed, deleted, or labeled to show that the data is
19 impersonated and does not reflect the defendant's identity.

20 (d) A court that has issued a determination of factual
21 innocence under this Section may at any time vacate that
22 determination if the petition, or any information submitted
23 in support of the petition, is found to contain any material
24 misrepresentation or fraud.

25 Section 10. The Consumer Fraud and Deceptive Business
26 Practices Act is amended by adding Section 2MM as follows:

27 (815 ILCS 505/2MM new)

28 Sec. 2MM. Verification of accuracy of credit reporting
29 information used to extend consumers credit.

30 (a) A credit card issuer who mails an offer or
31 solicitation to apply for a credit card and who receives a
32 completed application in response to the offer or

1 solicitation which lists an address that is not substantially
2 the same as the address on the offer or solicitation may not
3 issue a credit card based on that application until
4 reasonable steps have been taken to verify the applicant's
5 change of address.

6 (b) Any person who uses a consumer credit report in
7 connection with the approval of credit based on the
8 application for an extension of credit, and who has received
9 notification of a police report filed with a consumer
10 reporting agency that the applicant has been a victim of
11 financial identity theft, as defined in Section 16G-15 of
12 the Criminal Code of 1961, may not lend money or extend
13 credit without taking reasonable steps to verify the
14 consumer's identity and confirm that the application for an
15 extension of credit is not the result of financial identity
16 theft.

17 (c) For purposes of this Section, "extension of credit"
18 does not include an increase in an existing open-end credit
19 plan, as defined in Regulation Z of the Federal Reserve
20 System (12 C.F.R. 226.2), or any change to or review of an
21 existing credit account.

22 (d) Any person who violates subsection (a) or subsection
23 (b) commits an unlawful practice within the meaning of this
24 Act.