

1 AN ACT concerning criminal law.

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 changing
5 Sections 16G-10, 16G-15, and 16G-20 as follows:

6 (720 ILCS 5/16G-10)

7 Sec. 16G-10. Definitions. In this Article unless the
8 context otherwise requires:

9 (a) "Personal identification document" means a birth
10 certificate, a drivers license, a State identification card, a
11 public, government, or private employment identification card,
12 a social security card, a firearm owner's identification card,
13 a credit card, a debit card, or a passport issued to or on
14 behalf of a person other than the offender, or any document
15 made or issued, or falsely purported to have been made or
16 issued, by or under the authority of the United States
17 Government, the State of Illinois, or any other State political
18 subdivision of any state, or any other governmental or
19 quasi-governmental organization that is of a type intended for
20 the purpose of identification of an individual, or any such
21 document made or altered in a manner that it falsely purports
22 to have been made on behalf of or issued to another person or
23 by the authority of one who did not give that authority.

1 (b) "Personal identifying information" means any of the
2 following information:

3 (1) A person's name;

4 (2) A person's address;

5 (2.5) A person's date of birth;

6 (3) A person's telephone number;

7 (4) A person's drivers license number or State of
8 Illinois identification card as assigned by the Secretary
9 of State of the State of Illinois or a similar agency of
10 another state;

11 (5) A person's Social Security number;

12 (6) A person's public, private, or government
13 employer, place of employment, or employment
14 identification number;

15 (7) The maiden name of a person's mother;

16 (8) The number assigned to a person's depository
17 account, savings account, or brokerage account;

18 (9) The number assigned to a person's credit or debit
19 card, commonly known as a "Visa Card", "Master Card",
20 "American Express Card", "Discover Card", or other similar
21 cards whether issued by a financial institution,
22 corporation, or business entity;

23 (10) Personal identification numbers;

24 (11) Electronic identification numbers;

25 (12) Digital signals;

26 (12.5) User names, passwords, and any other word,

1 number, character or combination of the same usable in
2 whole or part to access information relating to a specific
3 individual, or to the actions taken, communications made or
4 received, or other activities or transactions of a specific
5 individual.

6 (13) Any other numbers or information which can be used
7 to access a person's financial resources, or to identify a
8 specific individual, or the actions taken, communications
9 made or received, or other activities or transactions of a
10 specific individual.

11 (c) "Document-making implement" means any implement,
12 impression, template, computer file, computer disc, electronic
13 device, computer hardware, computer software, instrument, or
14 device that is used to make a real or fictitious or fraudulent
15 personal identification document.

16 (d) "Financial transaction device" means any of the
17 following:

18 (1) An electronic funds transfer card.

19 (2) A credit card.

20 (3) A debit card.

21 (4) A point-of-sale card.

22 (5) Any instrument, device, card, plate, code, account
23 number, personal identification number, or a record or copy
24 of a code, account number, or personal identification
25 number or other means of access to a credit account or
26 deposit account, or a driver's license or state

1 identification card used to access a proprietary account,
2 other than access originated solely by a paper instrument,
3 that can be used alone or in conjunction with another
4 access device, for any of the following purposes:

5 (A) Obtaining money, cash refund or credit
6 account, credit, goods, services, or any other thing of
7 value.

8 (B) Certifying or guaranteeing to a person or
9 business the availability to the device holder of funds
10 on deposit to honor a draft or check payable to the
11 order of that person or business.

12 (C) Providing the device holder access to a deposit
13 account for the purpose of making deposits,
14 withdrawing funds, transferring funds between deposit
15 accounts, obtaining information pertaining to a
16 deposit account, or making an electronic funds
17 transfer.

18 (e) "Radio frequency identification device" means any
19 implement, computer file, computer disc, electronic device,
20 computer hardware, computer software, or instrument that is
21 used to activate, read, receive, or decode information stored
22 on a RFID tag or transponder attached to a personal
23 identification document.

24 (f) "RFID tag or transponder" means a chip or device that
25 contains personal identifying information from which the
26 personal identifying information can be read or decoded by

1 another device emitting a radio frequency that activates or
2 powers a radio frequency emission response from the chip or
3 transponder.

4 (Source: P.A. 93-401, eff. 7-31-03; 94-38, eff. 6-16-05;
5 94-1008, eff. 7-5-06.)

6 (720 ILCS 5/16G-15)

7 Sec. 16G-15. Identity theft.

8 (a) A person commits the offense of identity theft when he
9 or she knowingly:

10 (1) uses any personal identifying information or
11 personal identification document of another person to
12 fraudulently obtain credit, money, goods, services, or
13 other property;~~or~~

14 (2) uses any personal identification information or
15 personal identification document of another with intent to
16 commit any felony theft or other felony violation of State
17 law not set forth in paragraph (1) of this subsection (a);~~or~~
18 ~~or~~

19 (3) obtains, records, possesses, sells, transfers,
20 purchases, or manufactures any personal identification
21 information or personal identification document of another
22 with intent to commit or to aid or abet another in
23 committing any felony theft or other felony violation of
24 State law;~~or~~

25 (4) uses, obtains, records, possesses, sells,

1 transfers, purchases, or manufactures any personal
2 identification information or personal identification
3 document of another knowing that such personal
4 identification information or personal identification
5 documents were stolen or produced without lawful
6 authority;~~7- or~~

7 (5) uses, transfers, or possesses document-making
8 implements to produce false identification or false
9 documents with knowledge that they will be used by the
10 person or another to commit any felony theft or other
11 felony violation of State law;~~7- or~~

12 (6) uses any personal identification information or
13 personal identification document of another to portray
14 himself or herself as that person, or otherwise, for the
15 purpose of gaining access to any personal identification
16 information or personal identification document of that
17 person, without the prior express permission of that
18 person;~~7- or~~

19 (7) uses any personal identification information or
20 personal identification document of another for the
21 purpose of gaining access to any record of the actions
22 taken, communications made or received, or other
23 activities or transactions of that person, without the
24 prior express permission of that person;~~7- or~~

25 (7.5) uses, possesses, or transfers a radio frequency
26 identification device capable of obtaining or processing

1 personal identifying information from a radio frequency
2 identification (RFID) tag or transponder with knowledge
3 that the device will be used by the person or another to
4 commit a felony violation of State law or any violation of
5 this Article;

6 (8) in the course of applying for a building permit
7 with a unit of a local government, provides the license
8 number of a roofing contractor whom he or she does not
9 intend to have perform the work on the roofing portion of
10 the project; it. ~~It~~ is an affirmative defense to
11 prosecution under this paragraph (8) that the building
12 permit applicant promptly informed the unit of local
13 government that issued the building permit of any change in
14 the roofing contractor; or.

15 (9) ~~(8)~~ in the course of applying for a building permit
16 with a unit of local government, provides the license
17 number of a fire sprinkler contractor whom he or she does
18 not intend to have perform the work on the fire sprinkler
19 portion of the project; it. ~~It~~ is an affirmative defense to
20 prosecution under this paragraph (9) ~~(8)~~ that the building
21 permit applicant promptly informed the unit of local
22 government that issued the building permit of any change in
23 the fire sprinkler contractor.

24 (b) Knowledge shall be determined by an evaluation of all
25 circumstances surrounding the use of the other person's
26 identifying information or document.

1 (c) When a charge of identity theft of credit, money,
2 goods, services, or other property exceeding a specified value
3 is brought the value of the credit, money, goods, services, or
4 other property is an element of the offense to be resolved by
5 the trier of fact as either exceeding or not exceeding the
6 specified value.

7 (d) Sentence.

8 (1) A person convicted of identity theft in violation
9 of paragraph (1) of subsection (a) shall be sentenced as
10 follows:

11 (A) Identity theft of credit, money, goods,
12 services, or other property not exceeding \$300 in value
13 is a Class 4 felony. A person who has been previously
14 convicted of identity theft of less than \$300 who is
15 convicted of a second or subsequent offense of identity
16 theft of less than \$300 is guilty of a Class 3 felony.
17 A person who has been convicted of identity theft of
18 less than \$300 who has been previously convicted of any
19 type of theft, robbery, armed robbery, burglary,
20 residential burglary, possession of burglary tools,
21 home invasion, home repair fraud, aggravated home
22 repair fraud, or financial exploitation of an elderly
23 or disabled person is guilty of a Class 3 felony.
24 Identity theft of credit, money, goods, services, or
25 other property not exceeding \$300 in value when the
26 victim of the identity theft is an active duty member

1 of the Armed Services or Reserve Forces of the United
2 States or of the Illinois National Guard serving in a
3 foreign country is a Class 3 felony. A person who has
4 been previously convicted of identity theft of less
5 than \$300 who is convicted of a second or subsequent
6 offense of identity theft of less than \$300 when the
7 victim of the identity theft is an active duty member
8 of the Armed Services or Reserve Forces of the United
9 States or of the Illinois National Guard serving in a
10 foreign country is guilty of a Class 2 felony. A person
11 who has been convicted of identity theft of less than
12 \$300 when the victim of the identity theft is an active
13 duty member of the Armed Services or Reserve Forces of
14 the United States or of the Illinois National Guard
15 serving in a foreign country who has been previously
16 convicted of any type of theft, robbery, armed robbery,
17 burglary, residential burglary, possession of burglary
18 tools, home invasion, home repair fraud, aggravated
19 home repair fraud, or financial exploitation of an
20 elderly or disabled person is guilty of a Class 2
21 felony. When a person has any such prior conviction,
22 the information or indictment charging that person
23 shall state the prior conviction so as to give notice
24 of the State's intention to treat the charge as a Class
25 3 felony. The fact of the prior conviction is not an
26 element of the offense and may not be disclosed to the

1 jury during trial unless otherwise permitted by issues
2 properly raised during the trial.

3 (B) Identity theft of credit, money, goods,
4 services, or other property exceeding \$300 and not
5 exceeding \$2,000 in value is a Class 3 felony. Identity
6 theft of credit, money, goods, services, or other
7 property exceeding \$300 and not exceeding \$2,000 in
8 value when the victim of the identity theft is an
9 active duty member of the Armed Services or Reserve
10 Forces of the United States or of the Illinois National
11 Guard serving in a foreign country is a Class 2 felony.

12 (C) Identity theft of credit, money, goods,
13 services, or other property exceeding \$2,000 and not
14 exceeding \$10,000 in value is a Class 2 felony.
15 Identity theft of credit, money, goods, services, or
16 other property exceeding \$2,000 and not exceeding
17 \$10,000 in value when the victim of the identity theft
18 is an active duty member of the Armed Services or
19 Reserve Forces of the United States or of the Illinois
20 National Guard serving in a foreign country is a Class
21 1 felony.

22 (D) Identity theft of credit, money, goods,
23 services, or other property exceeding \$10,000 and not
24 exceeding \$100,000 in value is a Class 1 felony.
25 Identity theft of credit, money, goods, services, or
26 other property exceeding \$10,000 and not exceeding

1 \$100,000 in value when the victim of the identity theft
2 is an active duty member of the Armed Services or
3 Reserve Forces of the United States or of the Illinois
4 National Guard serving in a foreign country is a Class
5 X felony.

6 (E) Identity theft of credit, money, goods,
7 services, or other property exceeding \$100,000 in
8 value is a Class X felony.

9 (2) A person convicted of any offense enumerated in
10 paragraphs (2) through (7.5) ~~(7)~~ of subsection (a) is
11 guilty of a Class 3 felony. A person convicted of any
12 offense enumerated in paragraphs (2) through (7.5) ~~(7)~~ of
13 subsection (a) when the victim of the identity theft is an
14 active duty member of the Armed Services or Reserve Forces
15 of the United States or of the Illinois National Guard
16 serving in a foreign country is guilty of a Class 2 felony.

17 (3) A person convicted of any offense enumerated in
18 paragraphs (2) through (5) and (7.5) of subsection (a) a
19 second or subsequent time is guilty of a Class 2 felony. A
20 person convicted of any offense enumerated in paragraphs
21 (2) through (5) and (7.5) of subsection (a) a second or
22 subsequent time when the victim of the identity theft is an
23 active duty member of the Armed Services or Reserve Forces
24 of the United States or of the Illinois National Guard
25 serving in a foreign country is guilty of a Class 1 felony.

26 (4) A person who, within a 12 month period, is found in

1 violation of any offense enumerated in paragraphs (2)
2 through (7.5) ~~(7)~~ of subsection (a) with respect to the
3 identifiers of, or other information relating to, 3 or more
4 separate individuals, at the same time or consecutively, is
5 guilty of a Class 2 felony. A person who, within a 12 month
6 period, is found in violation of any offense enumerated in
7 paragraphs (2) through (7.5) ~~(7)~~ of subsection (a) with
8 respect to the identifiers of, or other information
9 relating to, 3 or more separate individuals, at the same
10 time or consecutively, when the victim of the identity
11 theft is an active duty member of the Armed Services or
12 Reserve Forces of the United States or of the Illinois
13 National Guard serving in a foreign country is guilty of a
14 Class 1 felony.

15 (5) A person convicted of identity theft in violation
16 of paragraph (2) of subsection (a) who uses any personal
17 identification information or personal identification
18 document of another to purchase methamphetamine
19 manufacturing material as defined in Section 10 of the
20 Methamphetamine Control and Community Protection Act with
21 the intent to unlawfully manufacture methamphetamine is
22 guilty of a Class 2 felony for a first offense and a Class
23 1 felony for a second or subsequent offense. A person
24 convicted of identity theft in violation of paragraph (2)
25 of subsection (a) who uses any personal identification
26 information or personal identification document of another

1 to purchase methamphetamine manufacturing material as
2 defined in Section 10 of the Methamphetamine Control and
3 Community Protection Act with the intent to unlawfully
4 manufacture methamphetamine when the victim of the
5 identity theft is an active duty member of the Armed
6 Services or Reserve Forces of the United States or of the
7 Illinois National Guard serving in a foreign country is
8 guilty of a Class 1 felony for a first offense and a Class
9 X felony for a second or subsequent offense.

10 (6) A person convicted of identity theft in violation
11 of paragraph (8) or (9) of subsection (a) of this Section
12 is ~~shall be~~ guilty of a Class 4 felony.

13 (Source: P.A. 95-60, eff. 1-1-08; 95-331, eff. 8-21-07;
14 96-1324, eff. 7-27-10; 96-1455, eff. 8-20-10; revised
15 9-16-10.)

16 (720 ILCS 5/16G-20)

17 Sec. 16G-20. Aggravated identity theft.

18 (a) A person commits the offense of aggravated identity
19 theft when he or she commits the offense of identity theft as
20 set forth in subsection (a) of Section 16G-15:

21 (1) against a person 60 years of age or older or a
22 disabled person as defined in Section 16-1.3 of this Code;
23 or

24 (2) in furtherance of the activities of an organized
25 gang.

1 For purposes of this Section, "organized gang" has the
2 meaning ascribed to that term in Section 10 of the Illinois
3 Streetgang Terrorism Omnibus Prevention Act.

4 (b) Knowledge shall be determined by an evaluation of all
5 circumstances surrounding the use of the other person's
6 identifying information or document.

7 (c) When a charge of aggravated identity theft of credit,
8 money, goods, services, or other property exceeding a specified
9 value is brought the value of the credit, money, goods,
10 services, or other property is an element of the offense to be
11 resolved by the trier of fact as either exceeding or not
12 exceeding the specified value.

13 (d) A defense to aggravated identity theft under paragraph
14 (a)(1) does not exist merely because the accused reasonably
15 believed the victim to be a person less than 60 years of age.

16 (e) Sentence.

17 (1) Aggravated identity theft of credit, money, goods,
18 services, or other property not exceeding \$300 in value is
19 a Class 3 felony.

20 (2) Aggravated identity theft of credit, money, goods,
21 services, or other property exceeding \$300 and not
22 exceeding \$10,000 in value is a Class 2 felony.

23 (3) Aggravated identity theft of credit, money, goods,
24 services, or other property exceeding \$10,000 in value and
25 not exceeding \$100,000 in value is a Class 1 felony.

26 (4) Aggravated identity theft of credit, money, goods,

1 services, or other property exceeding \$100,000 in value is
2 a Class X felony.

3 (4.1) Aggravated identity theft for a violation of any
4 offense enumerated in paragraphs (2) through (7.5) ~~(7)~~ of
5 subsection (a) of Section 16G-15 of this Code is a Class 2
6 felony.

7 (4.2) Aggravated identity theft when a person who,
8 within a 12 month period, is found in violation of any
9 offense enumerated in paragraphs (2) through (7.5) ~~(7)~~ of
10 subsection (a) of Section 16G-15 with identifiers of, or
11 other information relating to, 3 or more separate
12 individuals, at the same time or consecutively, is a Class
13 1 felony.

14 (5) A person who has been previously convicted of
15 aggravated identity theft regardless of the value of the
16 property involved who is convicted of a second or
17 subsequent offense of aggravated identity theft regardless
18 of the value of the property involved is guilty of a Class
19 X felony.

20 (Source: P.A. 95-199, eff. 8-16-07; 96-243, eff. 8-11-09.)