

AN ACT in relation to criminal law.

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

Section 5. The Criminal Code of 1961 is amended by changing the heading of Article 16G and Sections 16G-1, 16G-5, 16G-10, 16G-15, 16G-20, 16G-21, and 16G-25 as follows:

(720 ILCS 5/Article 16G heading)

ARTICLE 16G FINANCIAL IDENTITY THEFT  
AND-ASSET-FORFEITURE LAW

(720 ILCS 5/16G-1)

Sec. 16G-1. Short title. This Article may be cited as the Financial Identity Theft and-Asset-Forfeiture Law.

(Source: P.A. 91-517, eff. 8-13-99.)

(720 ILCS 5/16G-5)

Sec. 16G-5. Legislative declaration.

(a) It is the public policy of this State that the substantial burden placed upon the economy of this State as a result of the rising incidence of financial identity theft and the negative effect of this crime on the People of this State and its victims is a matter of grave concern to the People of this State who have the right to be protected in their health, safety, and welfare from the effects of this crime, and therefore financial identity theft shall be identified and dealt with swiftly and appropriately considering the onerous nature of the crime.

(b) The widespread availability and unauthorized access to personal identification information have led and will lead to a substantial increase in identity theft related crimes.

(Source: P.A. 91-517, eff. 8-13-99.)

(720 ILCS 5/16G-10)

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

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

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

(1) A person's name;

(2) A person's address;

(2.5) A person's date of birth;

(3) A person's telephone number;

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

(5) A person's Social Security number;

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

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

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

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

(10) Personal identification numbers;

(11) Electronic identification numbers;

(12) Digital signals;

(13) Any other numbers or information which can be used to access a person's financial resources, or to identify a specific individual.

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

(Source: P.A. 91-517, eff. 8-13-99.)

(720 ILCS 5/16G-15)

Sec. 16G-15. ~~Financial~~ Identity theft.

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

(1) uses any personal identifying information or personal identification document of another person to fraudulently obtain credit, money, goods, services, or other property, or-

(2) uses any personal identification information or personal identification document of another with intent to commit any felony theft or other felony violation of State law not set forth in paragraph (1) of this subsection (a), or

(3) obtains, records, possesses, sells, transfers,

purchases, or manufactures any personal identification information or personal identification document of another with intent to commit or to aid or abet another in committing any felony theft or other felony violation of State law, or

(4) uses, obtains, records, possesses, sells, transfers, purchases, or manufactures any personal identification information or personal identification document of another knowing that such personal identification information or personal identification documents were stolen or produced without lawful authority, or

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

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

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

(d) Sentence.

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

(A) Financial identity theft of credit, money, goods, services, or other property not exceeding \$300 in value is a Class A misdemeanor. A person who has been previously convicted of ~~financial~~ identity theft of less

than \$300 who is convicted of a second or subsequent offense of ~~financial~~ identity theft of less than \$300 is guilty of a Class 4 felony. A person who has been convicted of ~~financial~~ identity theft of less than \$300 who has been previously convicted of any type of theft, robbery, armed robbery, burglary, residential burglary, possession of burglary tools, home invasion, home repair fraud, aggravated home repair fraud, or financial exploitation of an elderly or disabled person is guilty of a Class 4 felony. When a person has any such prior conviction, the information or indictment charging that person shall state the prior conviction so as to give notice of the State's intention to treat the charge as a felony. The fact of the prior conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during the trial.

(B) ~~(2)~~--~~Financial~~ Identity theft of credit, money, goods, services, or other property exceeding \$300 and not exceeding \$2,000 in value is a Class 4 felony.

(C) ~~(3)~~--~~Financial~~ Identity theft of credit, money, goods, services, or other property exceeding \$2,000 and not exceeding \$10,000 in value is a Class 3 felony.

(D) ~~(4)~~--~~Financial~~ Identity theft of credit, money, goods, services, or other property exceeding \$10,000 and not exceeding \$100,000 in value is a Class 2 felony.

(E) ~~(5)~~--~~Financial~~ Identity theft of credit, money, goods, services, or other property exceeding \$100,000 in value is a Class 1 felony.

(2) A person convicted of any offense enumerated in paragraphs (2) through (5) of subsection (a) is guilty of a Class 4 felony.

(3) A person convicted of any offense enumerated in paragraphs (2) through (5) of subsection (a) a second or

subsequent time is guilty of a Class 3 felony.

(4) A person who, within a 12 month period, is found in violation of any offense enumerated in paragraphs (2) through (5) of subsection (a) with respect to the identifiers of 3 or more separate individuals, at the same time or consecutively, is guilty of a Class 3 felony.

(Source: P.A. 91-517, eff. 8-13-99; 92-792, eff. 8-6-02.)

(720 ILCS 5/16G-20)

Sec. 16G-20. Aggravated ~~financial~~ identity theft.

(a) A person commits the offense of aggravated ~~financial~~ identity theft when he or she commits the offense of ~~financial~~ identity theft as set forth in subsection (a) of Section 16G-15 against a person 60 years of age or older or a disabled person as defined in Section 16-1.3 of this Code.

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

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

(d) A defense to aggravated ~~financial~~ identity theft does not exist merely because the accused reasonably believed the victim to be a person less than 60 years of age.

(e) Sentence.

(1) Aggravated ~~financial~~ identity theft of credit, money, goods, services, or other property not exceeding \$300 in value is a Class 4 felony.

(2) Aggravated ~~financial~~ identity theft of credit, money, goods, services, or other property exceeding \$300

and not exceeding \$10,000 in value is a Class 3 felony.

(3) Aggravated ~~financial~~ identity theft of credit, money, goods, services, or other property exceeding \$10,000 in value and not exceeding \$100,000 in value is a Class 2 felony.

(4) Aggravated ~~financial~~ identity theft of credit, money, goods, services, or other property exceeding \$100,000 in value is a Class 1 felony.

(5) A person who has been previously convicted of aggravated ~~financial~~ identity theft regardless of the value of the property involved who is convicted of a second or subsequent offense of aggravated ~~financial~~ identity theft regardless of the value of the property involved is guilty of a Class X felony.

(Source: P.A. 91-517, eff. 8-13-99.)

(720 ILCS 5/16G-21)

Sec. 16G-21. Civil remedies. A person who is convicted of ~~financial~~ identity theft or aggravated ~~financial~~ identity theft is liable in a civil action to the person who suffered damages as a result of the violation. The person suffering damages may recover court costs, attorney's fees, lost wages, and actual damages.

(Source: P.A. 92-686, eff. 7-16-02.)

(720 ILCS 5/16G-25)

Sec. 16G-25. Offenders interest in the property. It is no defense to a charge of aggravated ~~financial~~ identity theft or ~~financial~~ identity theft that the offender has an interest in the credit, money, goods, services, or other property ~~obtained-in-the-name-of-the-other-person~~.

(Source: P.A. 91-517, eff. 8-13-99.)

Section 99. Effective date. This Act takes effect upon

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becoming law.