

AN ACT concerning 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 Sections 16G-10, 16G-15, and 16G-20 as follows:

(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;
- (12.5) User names, passwords, and any other word,

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

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

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

- (1) An electronic funds transfer card.
- (2) A credit card.
- (3) A debit card.
- (4) A point-of-sale card.

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

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

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

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

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

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

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

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

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

(720 ILCS 5/16G-15)

Sec. 16G-15. Identity theft.

(a) A person commits the offense of 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;~~;~~~~or~~

(6) uses any personal identification information or personal identification document of another to portray himself or herself as that person, or otherwise, for the purpose of gaining access to any personal identification information or personal identification document of that person, without the prior express permission of that person;~~;~~~~or~~

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

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

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

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

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

(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 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) Identity theft of credit, money, goods, services, or other property not exceeding \$300 in value is a Class 4 felony. A person who has been previously convicted of identity theft of less than \$300 who is convicted of a second or subsequent offense of identity theft of less than \$300 is guilty of a Class 3 felony. A person who has been convicted of 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 3 felony. Identity theft of credit, money, goods, services, or other property not exceeding \$300 in value when the victim of the identity theft is an active duty member

of the Armed Services or Reserve Forces of the United States or of the Illinois National Guard serving in a foreign country is a Class 3 felony. A person who has been previously convicted of identity theft of less than \$300 who is convicted of a second or subsequent offense of identity theft of less than \$300 when the victim of the identity theft is an active duty member of the Armed Services or Reserve Forces of the United States or of the Illinois National Guard serving in a foreign country is guilty of a Class 2 felony. A person who has been convicted of identity theft of less than \$300 when the victim of the identity theft is an active duty member of the Armed Services or Reserve Forces of the United States or of the Illinois National Guard serving in a foreign country 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 2 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 Class 3 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) Identity theft of credit, money, goods, services, or other property exceeding \$300 and not exceeding \$2,000 in value is a Class 3 felony. Identity theft of credit, money, goods, services, or other property exceeding \$300 and not exceeding \$2,000 in value when the victim of the identity theft is an active duty member of the Armed Services or Reserve Forces of the United States or of the Illinois National Guard serving in a foreign country is a Class 2 felony.

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

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

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

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

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

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

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

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

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

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

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

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

(720 ILCS 5/16G-20)

Sec. 16G-20. Aggravated identity theft.

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

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

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

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

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

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

(3) Aggravated 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 1 felony.

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

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

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

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

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

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