

LEGISLATIVE HISTORY CHECKLIST

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LAWS of 1999

CHAPTER: 117

NJSA: 2C:21-17
(Theft of identity)

BILL NO: A2414(Substituted for S1367 -- Senate Substitute Corrected Copy)

SPONSOR(S): Augustine

DATE INTRODUCED:September 17, 1998

COMMITTEE:

ASSEMBLY:Judiciary

SENATE:-----

AMENDED DURING PASSAGE:Yes

DATES OF PASSAGE:

ASSEMBLY: October 29, 1998 Re-enacted March 29, 1999

SENATE: December 17, 1998 Re-enacted May 10, 1999

DATE OF APPROVAL:May 21, 1999

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: *Yes*Assembly Committee Substitute for A2414, A1638 & A2456 (1R) enacted
(Amendments during passage denoted by superscript numbers)

ACS for A2414, A1638, A2456

SPONSORS STATEMENT:*No*

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS:*No*

LEGISLATIVE FISCAL ESTIMATE: *No*

ACS for A2414, A1635, A2456 (Vetoed by Governor)*Yes*

A2414

SPONSORS STATEMENT: *Yes* (Begins on page 2 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS:*No*

LEGISLATIVE FISCAL ESTIMATE: *No*

A1638

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS:*No*

LEGISLATIVE FISCAL ESTIMATE: *No*

A2456

SPONSORS STATEMENT: *Yes* (Begins on page 2 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS:*No*

LEGISLATIVE FISCAL ESTIMATE: *No*

Senate Substitute for S1367

SPONSORS STATEMENT: *Yes* (Begins on page 4 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS:*No*

LEGISLATIVE FISCAL ESTIMATE: *No*

Last Version (SS for S1367 Corrected Copy) *Yes*

S1367

SPONSORS STATEMENT: *Yes* (Begins on page 2 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

FIRST REPRINT (Last Version) *Yes*

GOVERNOR'S ACTIONS

VETO MESSAGE: *Yes*

GOVERNOR'S PRESS RELEASE ON CONDITIONAL VETO *Yes*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

P.L. 1999, CHAPTER 117, *approved May 21, 1999*
Assembly Committee Substitute (*First Reprint*) for
Assembly, Nos. 2414, 1638 and 2456

1 AN ACT concerning wrongful impersonation and theft of identity and
2 amending N.J.S.2C:21-17.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.2C:21-17 is amended to read as follow:

8 2C:21-17. Impersonation; Theft of Identity; disorderly persons
9 offense, crime.

10 a. A person is guilty of **[a disorderly persons offense]** an offense
11 when he:

12 (1) Impersonates another or assumes a false identity and does an
13 act in such assumed character or false identity for purpose of obtaining
14 a pecuniary benefit for himself or another or to injure or defraud
15 another;

16 (2) Pretends to be a representative of some person or
17 organization and does an act in such pretended capacity for the
18 purpose of obtaining a benefit for himself or another or to injure or
19 defraud another; **[or]**

20 (3) Impersonates another, assumes a false identity or makes a
21 false or misleading statement regarding the identity of any person, in
22 an oral or written application for services, for the purpose of obtaining
23 services; or

24 (4) Obtains any personal identifying information pertaining to
25 another person and uses that information, or assists another person in
26 using the information, in order to assume the identity of or represent
27 themselves as another person, without that person's authorization and
28 with the ¹**[intent]** purpose¹ to fraudulently obtain or attempt to obtain
29 ¹**[money, credit, goods]**a pecuniary benefit¹ or services, or avoid the
30 payment of debt or other legal obligation or avoid prosecution for a
31 crime ¹**[in]** by using¹ the name of the other person ¹**[without that**
32 person's consent]¹.

33 As used in this paragraph: "personal identifying information"
34 means, but is not limited to, the name, address, telephone number,
35 social security number, place of employment, employee identification
36 number, demand deposit account number, savings account number,
37 credit card number or mother's maiden name of an individual person.

38 b. ¹**[A person is guilty of an offense if he impersonates another or**

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ **Assembly amendments adopted in accordance with Governor's recommendations March 4, 1999.**

1 assumes a false identity and does an act in such assumed character or
2 false identity for the purpose of obtaining a pecuniary benefit for
3 himself or another or to injure or defraud another. If the pecuniary
4 benefit received or the injury or fraud perpetrated on another is
5 \$75,000 or more, the offender is guilty of a crime of the second
6 degree. If the pecuniary benefit received or the injury or fraud
7 perpetrated on another is at least \$500, but is less than \$75,000, the
8 offender is guilty of a crime of the third degree. If the pecuniary
9 benefit received or the injury or fraud perpetrated on another is at least
10 \$200 but is less than \$500, the offender is guilty of a crime of the
11 fourth degree. If the pecuniary benefit received or the injury or fraud
12 perpetrated on another is less than \$200, the offender is guilty of a
13 disorderly persons offense.

14 c. (1) A person is guilty of an offense if the person pretends to be
15 a representative of some person or organization and does an act in
16 such pretended capacity for the purpose of obtaining a benefit for
17 himself or another or to injure or defraud another. If the benefit
18 received is a pecuniary benefit or the injury or fraud perpetrated on
19 another is \$75,000 or more, the offender is guilty of a crime of the
20 second degree. If the benefit received is a pecuniary benefit or the
21 injury or fraud perpetrated on another is a least \$500 but is less than
22 \$75,000, the offender is guilty of a crime of the third degree. If the
23 benefit received is a pecuniary benefit or the injury or fraud
24 perpetrated on another is at least \$200 but is less than \$500, the
25 offender is guilty of a crime of the fourth degree.

26 (2) If the benefit received is a pecuniary benefit less than \$200 or
27 if the benefit has no pecuniary value or if the injury or fraud
28 perpetrated on another has no pecuniary value then the person is guilty
29 of a disorderly persons offense.

30 **[b] d.]¹** A person is guilty of an offense if, in the course of
31 making an oral or written application for services, he impersonates
32 another, assumes a false identity or makes a false or misleading
33 statement with the purpose of ¹**[obtaining services and]**¹ avoiding
34 payment for prior services. ¹**[If the payment sought to be avoided is**
35 **\$75,000 or more, the offender is guilty of a crime of the second**
36 **degree. If the payment sought to be avoided [exceeds \$1,000,] is at**
37 **least \$500 but is less than \$75,000, the offender is guilty of a crime of**
38 **the third degree. If the payment sought to be avoided is [\$1,000 or**
39 **less,] at least \$200 but is less than \$500, the offender is guilty of a**
40 **crime of the fourth degree.]¹** Purpose to avoid payment for prior
41 services may be presumed upon proof that the person has not made
42 full payment for prior services and has impersonated another, assumed
43 a false identity or made a false or misleading statement regarding the
44 identity of any person in the course of making oral or written
45 application for services.

46 ¹**[e.] c.¹** (1) A person ¹who violates subsection a. or b. of this

1 section¹ is guilty of ¹ [an offense if he obtains any personal identifying
2 information pertaining to another person and uses that information, or
3 assists another person in using the information, in order to assume the
4 identity of or represent themselves as another person, without that
5 person's authorization and with the intent to fraudulently obtain or
6 attempt to obtain money, credit, goods or services, or avoid the
7 payment of debt or other legal obligation or avoid prosecution for a
8 crime in the name of the other person without the consent of that
9 person. If the benefit received is]¹ a ¹ crime of the second degree if
10 the¹ pecuniary benefit ¹, the value of the services received, the
11 payment sought to be avoided¹ or the injury or fraud perpetrated on
12 another is \$75,000 or more ¹ [, the offender is guilty of a crime of the
13 second degree]¹ . If the ¹ [benefit received is a]¹ pecuniary benefit ¹
14 , the value of the services received, the payment sought to be avoided¹
15 or the injury or fraud perpetrated on another is at least \$500 but is less
16 than \$75,000, the offender is guilty of a crime of the third degree. If
17 the ¹ [benefit received is a]¹ pecuniary benefit ¹, the value of the
18 services received, the payment sought to be avoided¹ or the injury or
19 fraud perpetrated on another is at least \$200 but is less than \$500, the
20 offender is guilty of a crime of the fourth degree.

21 (2) If the ¹ [benefit received is a]¹ pecuniary benefit ¹, the value
22 of the services received, the payment sought to be avoided or the
23 injury or fraud perpetrated on another is¹ less than \$200 ¹, ¹ or if the
24 benefit ¹ [has no pecuniary value]¹ or ¹ [if] services received or ¹ the
25 injury or fraud perpetrated on another has no pecuniary value ¹, or if
26 the person was unsuccessful in an attempt to receive a benefit or
27 services or to injure or perpetrate a fraud on another, ¹ then the person
28 is guilty of a disorderly persons offense.

29 ¹ [f. This section shall not apply to a person subject to the
30 penalties provided under]d. A violation of ¹ R.S.39:3-37 for using the
31 personal information of another to obtain a driver's license or register
32 a motor vehicle ¹ [,]¹ or ¹ [to a person subject to the penalties
33 provided under] a violation of ¹ R.S.33:1-81 or section 6 of P.L.1968.
34 c.313 (C.33:1-81.7) for using the personal information of another to
35 illegally purchase an alcoholic beverage ¹ shall not constitute an offense
36 under this section if the actor received only that benefit or service and
37 did not perpetrate or attempt to perpetrate any additional injury or
38 fraud on another¹ .

39 (cf: P.L.1995, c.417, s.1)

40

41 2. This act shall take effect immediately.

42

43

44

45 Upgrades wrongful impersonation; establishes penalty for theft of
46 identity.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 2414, 1638 and 2456**

STATE OF NEW JERSEY

DATED: OCTOBER 15, 1998

The Assembly Judiciary Committee reports favorably an Assembly Committee Substitute for Assembly Nos. 2414, 1638 and 2456.

This substitute amends N.J.S.2C:21-17 concerning wrongful impersonation to specifically include identity theft in its provisions. It provides that a person who obtains the personal identifying information of another person and uses that information to obtain credit, money, goods or services, or avoid the payment of a debt or other legal obligation or avoid prosecution for a crime without the consent of that person, is guilty of the offense of wrongful impersonation or identity theft.

Personal identifying information is defined by the substitute as name, address, telephone number, social security number, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, or credit card number.

The substitute would generally upgrade the various wrongful impersonation offenses and make these offenses a crime of the second degree if the amount involved is \$75,000 or more; a crime of the third degree if the amount involved is at least \$500 but is less than \$75,000; a crime of the fourth degree if the amount involved is at least \$200 but is less than \$500; and a disorderly persons offense if the amount involved is less than \$200 or if the benefit is not a pecuniary benefit. This scheme is generally the same as the gradation scheme for theft offenses.

A crime of the second degree is punishable by imprisonment for five to 10 years, a fine of up to \$150,000, or both; a crime of the third degree by imprisonment for three to five years, a fine of up to \$15,000, or both; and a crime of the fourth degree by imprisonment for up to 18 months, fine of up to \$10,000, or both. A disorderly persons offense is punishable by imprisonment for up to six months, a fine of up to \$1,000, or both.

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 2414, 1638 and 2456

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED OCTOBER 15, 1998

Sponsored by:

Assemblyman **ALAN M. AUGUSTINE**
District 22 (Middlesex, Morris, Somerset and Union)
Assemblyman **RICHARD A. MERKT**
District 25 (Morris)
Assemblywoman **NELLIE POU**
District 35 (Passaic)
Assemblyman **JOHN S. WISNIEWSKI**
District 19 (Middlesex)
Assemblyman **NEIL M. COHEN**
District 20 (Union)

Co-Sponsored by:

Assemblymen Stanley, Felice, Greenwald, Zisa, Zecker, Assemblywoman Gill, Assemblymen Gusciora, Barnes, DeCroce, LeFevre, Assemblywomen Quigley, Crecco, Friscia, Previte, Assemblymen Azzolina, Corodemus, Talarico, Assemblywoman Watson Coleman, Senators Bennett, Robertson, Bucco, Kavanaugh, Martin, Inverso, Adler and Kyrillos

SYNOPSIS

Upgrades wrongful impersonation; establishes penalty for theft of identity.

CURRENT VERSION OF TEXT

As amended on March 4, 1999 by the General Assembly pursuant to the Governor's recommendations.

(Sponsorship Updated As Of: 12/18/1998)

1 AN ACT concerning wrongful impersonation and theft of identity and
2 amending N.J.S.2C:21-17.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. N.J.S.2C:21-17 is amended to read as follow:

8 2C:21-17. Impersonation; Theft of Identity; disorderly persons
9 offense, crime.

10 a. A person is guilty of **[a disorderly persons offense]** an offense
11 when he:

12 (1) Impersonates another or assumes a false identity and does an
13 act in such assumed character or false identity for purpose of obtaining
14 a pecuniary benefit for himself or another or to injure or defraud
15 another;

16 (2) Pretends to be a representative of some person or
17 organization and does an act in such pretended capacity for the
18 purpose of obtaining a benefit for himself or another or to injure or
19 defraud another; **[or]**

20 (3) Impersonates another, assumes a false identity or makes a
21 false or misleading statement regarding the identity of any person, in
22 an oral or written application for services, for the purpose of obtaining
23 services; or

24 (4) Obtains any personal identifying information pertaining to
25 another person and uses that information, or assists another person in
26 using the information, in order to assume the identity of or represent
27 themselves as another person, without that person's authorization and
28 with the ¹**[intent]** purpose¹ to fraudulently obtain or attempt to obtain
29 ¹**[money, credit, goods]**a pecuniary benefit¹ or services, or avoid the
30 payment of debt or other legal obligation or avoid prosecution for a
31 crime ¹**[in]** by using¹ the name of the other person ¹**[without that**
32 person's consent]¹.

33 As used in this paragraph: "personal identifying information"
34 means, but is not limited to, the name, address, telephone number,
35 social security number, place of employment, employee identification
36 number, demand deposit account number, savings account number,
37 credit card number or mother's maiden name of an individual person.

38 b. ¹**[A person is guilty of an offense if he impersonates another or**
39 assumes a false identity and does an act in such assumed character or
40 false identity for the purpose of obtaining a pecuniary benefit for

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ **Assembly amendments adopted in accordance with Governor's recommendations March 4, 1999.**

1 himself or another or to injure or defraud another. If the pecuniary
2 benefit received or the injury or fraud perpetrated on another is
3 \$75,000 or more, the offender is guilty of a crime of the second
4 degree. If the pecuniary benefit received or the injury or fraud
5 perpetrated on another is at least \$500, but is less than \$75,000, the
6 offender is guilty of a crime of the third degree. If the pecuniary
7 benefit received or the injury or fraud perpetrated on another is at least
8 \$200 but is less than \$500, the offender is guilty of a crime of the
9 fourth degree. If the pecuniary benefit received or the injury or fraud
10 perpetrated on another is less than \$200, the offender is guilty of a
11 disorderly persons offense.

12 c. (1) A person is guilty of an offense if the person pretends to be
13 a representative of some person or organization and does an act in
14 such pretended capacity for the purpose of obtaining a benefit for
15 himself or another or to injure or defraud another. If the benefit
16 received is a pecuniary benefit or the injury or fraud perpetrated on
17 another is \$75,000 or more, the offender is guilty of a crime of the
18 second degree. If the benefit received is a pecuniary benefit or the
19 injury or fraud perpetrated on another is a least \$500 but is less than
20 \$75,000, the offender is guilty of a crime of the third degree. If the
21 benefit received is a pecuniary benefit or the injury or fraud
22 perpetrated on another is at least \$200 but is less than \$500, the
23 offender is guilty of a crime of the fourth degree.

24 (2) If the benefit received is a pecuniary benefit less than \$200 or
25 if the benefit has no pecuniary value or if the injury or fraud
26 perpetrated on another has no pecuniary value then the person is guilty
27 of a disorderly persons offense.

28 **[b] d.]¹** A person is guilty of an offense if, in the course of
29 making an oral or written application for services, he impersonates
30 another, assumes a false identity or makes a false or misleading
31 statement with the purpose of ¹**[obtaining services and]**¹ avoiding
32 payment for prior services. ¹**[If the payment sought to be avoided is**
33 **\$75,000 or more, the offender is guilty of a crime of the second**
34 **degree. If the payment sought to be avoided [exceeds \$1,000,] is at**
35 **least \$500 but is less than \$75,000, the offender is guilty of a crime of**
36 **the third degree. If the payment sought to be avoided is [\$1,000 or**
37 **less,] at least \$200 but is less than \$500, the offender is guilty of a**
38 **crime of the fourth degree.]¹** Purpose to avoid payment for prior
39 services may be presumed upon proof that the person has not made
40 full payment for prior services and has impersonated another, assumed
41 a false identity or made a false or misleading statement regarding the
42 identity of any person in the course of making oral or written
43 application for services.

44 ¹**[e.] c.¹** (1) A person ¹who violates subsection a. or b. of this
45 section¹ is guilty of ¹[an offense if he obtains any personal identifying

1 information pertaining to another person and uses that information, or
2 assists another person in using the information, in order to assume the
3 identity of or represent themselves as another person, without that
4 person's authorization and with the intent to fraudulently obtain or
5 attempt to obtain money, credit, goods or services, or avoid the
6 payment of debt or other legal obligation or avoid prosecution for a
7 crime in the name of the other person without the consent of that
8 person. If the benefit received is] a crime of the second degree if
9 the pecuniary benefit, the value of the services received, the
10 payment sought to be avoided or the injury or fraud perpetrated on
11 another is \$75,000 or more [, the offender is guilty of a crime of the
12 second degree]. If the [benefit received is a] pecuniary benefit
13 , the value of the services received, the payment sought to be avoided
14 or the injury or fraud perpetrated on another is at least \$500 but is less
15 than \$75,000, the offender is guilty of a crime of the third degree. If
16 the [benefit received is a] pecuniary benefit, the value of the
17 services received, the payment sought to be avoided or the injury or
18 fraud perpetrated on another is at least \$200 but is less than \$500, the
19 offender is guilty of a crime of the fourth degree.

20 (2) If the [benefit received is a] pecuniary benefit, the value
21 of the services received, the payment sought to be avoided or the
22 injury or fraud perpetrated on another is less than \$200, or if the
23 benefit [has no pecuniary value] or [if] services received or the
24 injury or fraud perpetrated on another has no pecuniary value, or if
25 the person was unsuccessful in an attempt to receive a benefit or
26 services or to injure or perpetrate a fraud on another, then the person
27 is guilty of a disorderly persons offense.

28 [f. This section shall not apply to a person subject to the
29 penalties provided under]d. A violation of R.S.39:3-37 for using the
30 personal information of another to obtain a driver's license or register
31 a motor vehicle [,] or [to a person subject to the penalties
32 provided under] a violation of R.S.33:1-81 or section 6 of P.L.1968.
33 c.313 (C.33:1-81.7) for using the personal information of another to
34 illegally purchase an alcoholic beverage shall not constitute an offense
35 under this section if the actor received only that benefit or service and
36 did not perpetrate or attempt to perpetrate any additional injury or
37 fraud on another.

38 (cf: P.L.1995, c.417, s.1)

39

40 2. This act shall take effect immediately.

ASSEMBLY, No. 2414

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED SEPTEMBER 17, 1998

Sponsored by:

Assemblyman ALAN M. AUGUSTINE

District 22 (Middlesex, Morris, Somerset and Union)

Co-Sponsored by:

Assemblyman Stanley

SYNOPSIS

Makes identity theft a crime.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/6/1998)

1 AN ACT concerning misuse of personal information and supplementing
2 chapter 21 of Title 2C of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. As used in this act, "personal identifying information"
8 includes, but is not limited to, a person's name, address, telephone
9 number, driver's license number, social security number, place of
10 employment, employee identification number, mother's maiden name,
11 demand deposit account number, savings account number, or credit
12 card number.

13 b. It shall be a crime of the third degree to knowingly obtain the
14 personal identifying information of another person, without the
15 authorization of that person, and to use that information to obtain or
16 attempt to obtain credit, money, goods or services in the name of the
17 other person, without the consent of that person.

18

19 2. This act shall take effect immediately.

20

21

22

STATEMENT

23

24 Due to the rise in use of electronic media and commercial
25 marketers, accessing another's personal information has become easy
26 and inexpensive. As a result, an increasing number of persons are
27 falling victim to "identity theft" each day. Currently, however, no
28 State law specifically prohibits persons from using another's personal
29 information for their own gain. Therefore, this bill would establish
30 identity theft as a crime of the third degree. Third-degree crimes are
31 punishable by imprisonment for three to five years, a fine of up to
32 \$15,000, or both.

33 Under the bill, a person who knowingly obtains the personal
34 identifying information of another person and uses that information to
35 obtain credit, money, goods or services in the name of the other
36 person, without the consent of that person, commits the crime of
37 identity theft. As defined by the bill, personal identifying information
38 includes, but is not limited to, a person's name, address, telephone
39 number, driver's license number, social security number, place of
40 employment, employee identification number, mother's maiden name,
41 demand deposit account number, savings account number or credit
42 card number.

ASSEMBLY, No. 1638

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED FEBRUARY 10, 1998

Sponsored by:

Assemblywoman NELLIE POU

District 35 (Passaic)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Co-Sponsored by:

Assemblymen Felice, Greenwald, Zisa, Zecker, Assemblywoman Gill,

Assemblymen Gusciora, Barnes, DeCroce, LeFevre, Assemblywomen

Quigley, Crecco, Friscia, Previte and Assemblyman Augustine

SYNOPSIS

Upgrades wrongful impersonation under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/19/1998)

A1638 POU, WISNIEWSKI

2

1 AN ACT concerning wrongful impersonation and amending
2 N.J.S.2C:21-17.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. N.J.S. 2C:21-17 is amended to read as follow:

8 2C:21-17. Impersonation; disorderly persons offense, crime.

9 a. A person is guilty of a **[disorderly persons offense]** crime of
10 the third degree when he~~is~~:

11 (1) **Impersonates]** impersonates another or assumes a false identity
12 by using another person's name, Social Security number or any other
13 means of identification without that person's consent and does an act
14 in such assumed character or false identity for purpose of obtaining a
15 pecuniary benefit for himself or another or to injure or defraud
16 another~~;~~ .

17 **[(2)]** b. A person is guilty of a disorderly persons offense when he:

18 (1) Pretends to be a representative of some person or organization
19 and does an act in such pretended capacity for the purpose of
20 obtaining a benefit for himself or another or to injure or defraud
21 another; or

22 **[(3)]** (2) Impersonates another, assumes a false identity or makes
23 a false or misleading statement regarding the identity of any person, in
24 an oral or written application for services, for the purpose of obtaining
25 services.

26 **[b]** c. A person is guilty of an offense if, in the course of making
27 an oral or written application for services, he impersonates another,
28 assumes a false identity or makes a false or misleading statement with
29 the purpose of obtaining services and avoiding payment for prior
30 services. If the payment sought to be avoided is \$75,000 or more, the
31 offender is guilty of a crime of the second degree. If the payment
32 sought to be avoided exceeds \$1,000, but is less than \$75,000, the
33 offender is guilty of a crime of the third degree. If the payment sought
34 to be avoided is \$1,000 or less, the offender is guilty of a crime of the
35 fourth degree. Purpose to avoid payment for prior services may be
36 presumed upon proof that the person has not made full payment for
37 prior services and has impersonated another, assumed a false identity
38 or made a false or misleading statement regarding the identity of any
39 person in the course of making oral or written application for services.
40 (cf: P.L.1995, c.417, s.1)

41

42 2. This act shall take effect immediately .

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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STATEMENT

This bill would make it a crime of the third degree for a person to impersonate another or assume a false identity by using another person's name, Social Security number or any other means of identification without that person's consent and does an act in such assumed character or false identity for purpose of obtaining a pecuniary benefit for himself or another or to injure or defraud another.

ASSEMBLY, No. 2456

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED SEPTEMBER 28, 1998

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

SYNOPSIS

Establishes penalty for identity theft.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning misuse of personal information and supplementing
2 chapter 21 of Title 2C of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. a. A person who takes the identity of another by knowingly
8 obtaining the personal identifying information of another person,
9 without the authorization of that person, and who uses that
10 information to obtain or attempt to obtain credit, money, goods or
11 services in the name of the other person, without the consent of that
12 person, is guilty of theft.

13 b. As used in this act, "personal identifying information" means the
14 name, address, telephone number, driver's license number, social
15 security number, place of employment, employee identification
16 number, mother's maiden name, demand deposit account number,
17 savings account number, or credit card number of an individual person.

18 c. For purposes of this section, theft is a crime of the second
19 degree if the amount involved is \$75,000 or more; a crime of the third
20 degree if the amount involved is at least \$500 but is less than \$75,000;
21 a crime of the fourth degree if the amount involved is at least \$200 but
22 is less than \$500; and a disorderly persons offense if the amount
23 involved is less than \$200.

24

25 2. This act shall take effect immediately.

26

27

28

STATEMENT

29

30 This bill is intended to stem the growing incidence of "identity
31 theft," the unlawful taking of a person's name, driver's license number
32 or other personal information. Current technology has made such
33 information increasingly accessible to thieves, who misuse it to make
34 credit purchases in the name of the victim.

35 Laws presently exist against theft by deception, impersonation with
36 intent to defraud and the fraudulent use of credit cards. This bill
37 specifically targets those who assume the identity of another person
38 for an unlawful purpose. It provides that a person who knowingly
39 obtains the personal identifying information of another person and uses
40 that information to obtain credit, money, goods or services in the name
41 of the other person, without the consent of that person, is guilty of the
42 crime of identify theft.

43 Personal identifying information is defined by the bill as name,
44 address, telephone number, driver's license number, social security

1 number, place of employment, employee identification number,
2 mother's maiden name, demand deposit account number, savings
3 account number, or credit card number.

4 The bill would make identity theft a crime of the second degree if
5 the amount involved is \$75,000 or more; a crime of the third degree
6 if the amount involved is at least \$500 but is less than \$75,000; a
7 crime of the fourth degree if the amount involved is at least \$200 but
8 is less than \$500; and a disorderly persons offense if the amount
9 involved is less than \$200.

10 A crime of the second degree is punishable by imprisonment for five
11 to 10 years, a fine of up to \$150,000, or both; a crime of the third
12 degree by imprisonment for three to five years, a fine of up to
13 \$15,000, or both; and a crime of the fourth degree by imprisonment
14 for up to 18 months, fine of up to \$10,000, or both. A disorderly
15 persons offense is punishable by imprisonment for up to six months, a
16 fine of up to \$1,000, or both.

[Corrected Copy]

SENATE SUBSTITUTE FOR
SENATE, No. 1367

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED DECEMBER 10, 1998

Sponsored by:

Senator JOHN O. BENNETT

District 12 (Monmouth)

Senator NORMAN M. ROBERTSON

District 34 (Essex and Passaic)

Co-Sponsored by:

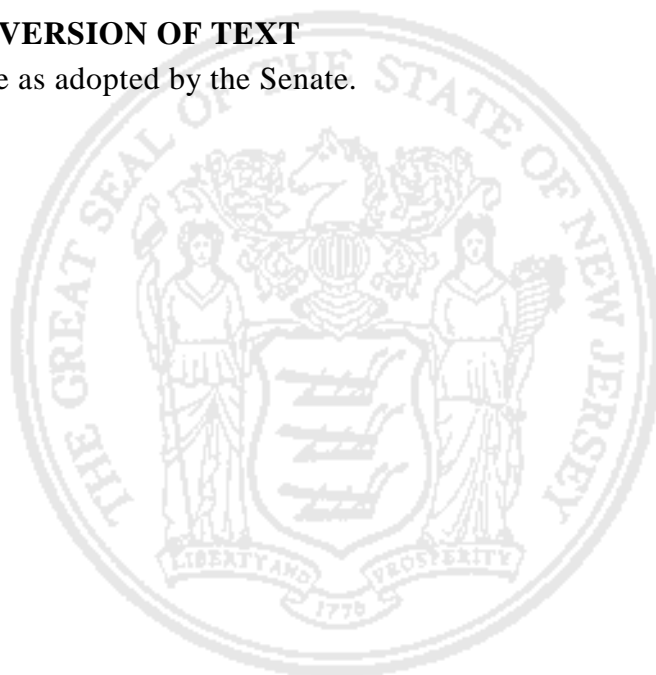
Senators Bucco, Kavanaugh, Martin, Inverso, Adler and Kyrillos

SYNOPSIS

Upgrades wrongful impersonation; establishes penalty for theft of identity.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.



1 AN ACT concerning wrongful impersonation and theft of identity and
2 amending N.J.S.2C:21-17.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.2C:21-17 is amended to read as follows:

8 2C:21-17. Impersonation; Theft of Identity; disorderly persons
9 offense, crime.

10 a. A person is guilty of **[a disorderly persons offense]** an offense
11 when he:

12 (1) Impersonates another or assumes a false identity and does an
13 act in such assumed character or false identity for purpose of obtaining
14 a pecuniary benefit for himself or another or to injure or defraud
15 another;

16 (2) Pretends to be a representative of some person or
17 organization and does an act in such pretended capacity for the
18 purpose of obtaining a benefit for himself or another or to injure or
19 defraud another; **[or]**

20 (3) Impersonates another, assumes a false identity or makes a
21 false or misleading statement regarding the identity of any person, in
22 an oral or written application for services, for the purpose of obtaining
23 services; or

24 (4) Obtains any personal identifying information pertaining to
25 another person and uses that information, or assists another person in
26 using the information, in order to assume the identity of or represent
27 themselves as another person, without that person's authorization and
28 with the intent to fraudulently obtain or attempt to obtain money,
29 credit, goods or services, or avoid the payment of debt or other legal
30 obligation or avoid prosecution for a crime in the name of the other
31 person without that person's consent.

32 As used in this paragraph: "personal identifying information"
33 means, but is not limited to, the name, address, telephone number,
34 social security number, place of employment, employee identification
35 number, demand deposit account number, savings account number,
36 credit card number or mother's maiden name of an individual person.

37 b. A person is guilty of an offense if he impersonates another or
38 assumes a false identity and does an act in such assumed character or
39 false identity for the purpose of obtaining a pecuniary benefit for
40 himself or another or to injure or defraud another. If the pecuniary
41 benefit received or the injury or fraud perpetrated on another is
42 \$75,000 or more, the offender is guilty of a crime of the second
43 degree. If the pecuniary benefit received or the injury or fraud

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 perpetrated on another is at least \$500, but is less than \$75,000, the
2 offender is guilty of a crime of the third degree. If the pecuniary
3 benefit received or the injury or fraud perpetrated on another is at least
4 \$200 but is less than \$500, the offender is guilty of a crime of the
5 fourth degree. If the pecuniary benefit received or the injury or fraud
6 perpetrated on another is less than \$200, the offender is guilty of a
7 disorderly persons offense.

8 c. (1) A person is guilty of an offense if the person pretends to be
9 a representative of some person or organization and does an act in
10 such pretended capacity for the purpose of obtaining a benefit for
11 himself or another or to injure or defraud another. If the benefit
12 received is a pecuniary benefit or the injury or fraud perpetrated on
13 another is \$75,000 or more, the offender is guilty of a crime of the
14 second degree. If the benefit received is a pecuniary benefit or the
15 injury or fraud perpetrated on another is a least \$500 but is less than
16 \$75,000, the offender is guilty of a crime of the third degree. If the
17 benefit received is a pecuniary benefit or the injury or fraud
18 perpetrated on another is at least \$200 but is less than \$500, the
19 offender is guilty of a crime of the fourth degree.

20 (2) If the benefit received is a pecuniary benefit less than \$200 or
21 if the benefit has no pecuniary value or if the injury or fraud
22 perpetrated on another has no pecuniary value then the person is guilty
23 of a disorderly persons offense.

24 **[b.] d.** A person is guilty of an offense if, in the course of making
25 an oral or written application for services, he impersonates another,
26 assumes a false identity or makes a false or misleading statement with
27 the purpose of obtaining services and avoiding payment for prior
28 services. If the payment sought to be avoided is \$75,000 or more, the
29 offender is guilty of a crime of the second degree. If the payment
30 sought to be avoided **[exceeds \$1,000,]** is at least \$500 but is less
31 than \$75,000, the offender is guilty of a crime of the third degree. If
32 the payment sought to be avoided is **[\$1,000 or less,]** at least \$200
33 but is less than \$500, the offender is guilty of a crime of the fourth
34 degree. Purpose to avoid payment for prior services may be presumed
35 upon proof that the person has not made full payment for prior
36 services and has impersonated another, assumed a false identity or
37 made a false or misleading statement regarding the identity of any
38 person in the course of making oral or written application for services.

39 e. (1) A person is guilty of an offense if he obtains any personal
40 identifying information pertaining to another person and uses that
41 information, or assists another person in using the information, in
42 order to assume the identity of or represent themselves as another
43 person, without that person's authorization and with the intent to
44 fraudulently obtain or attempt to obtain money, credit, goods or
45 services, or avoid the payment of debt or other legal obligation or
46 avoid prosecution for a crime in the name of the other person without

1 the consent of that person. If the benefit received is a pecuniary
2 benefit or the injury or fraud perpetrated on another is \$75,000 or
3 more, the offender is guilty of a crime of the second degree. If the
4 benefit received is a pecuniary benefit or the injury or fraud
5 perpetrated on another is at least \$500 but is less than \$75,000, the
6 offender is guilty of a crime of the third degree. If the benefit received
7 is a pecuniary benefit or the injury or fraud perpetrated on another is
8 at least \$200 but is less than \$500, the offender is guilty of a crime of
9 the fourth degree.

10 (2) If the benefit received is a pecuniary benefit less than \$200 or
11 if the benefit has no pecuniary value or if the injury or fraud
12 perpetrated on another has no pecuniary value then the person is guilty
13 of a disorderly persons offense.

14 f. This section shall not apply to a person subject to the penalties
15 provided under R.S.39:3-37 for using the personal information of
16 another to obtain a driver's license or register a motor vehicle, or to a
17 person subject to the penalties provided under R.S.33:1-81 or section
18 6 of P.L.1968. c.313 (C.33:1-81.7) for using the personal information
19 of another to illegally purchase an alcoholic beverage.

20 (cf: P.L.1995, c.417, s.1)

21
22 2. This act shall take effect immediately.

23
24
25 STATEMENT

26
27 This substitute amends N.J.S.2C:21-17 concerning wrongful
28 impersonation to specifically include identity theft in its provisions. It
29 provides that a person who obtains the personal identifying
30 information of another person and uses that information to obtain
31 credit, money, goods or services, or avoid the payment of a debt or
32 other legal obligation or avoid prosecution for a crime without the
33 consent of that person, is guilty of the offense of wrongful
34 impersonation or identity theft.

35 Personal identifying information is defined by the substitute as an
36 individual's name, address, telephone number, social security number,
37 place of employment, employee identification number, mother's maiden
38 name, demand deposit account number, savings account number, or
39 credit card number.

40 The substitute would generally upgrade the various wrongful
41 impersonation offenses and make these offenses a crime of the second
42 degree if the amount involved is \$75,000 or more; a crime of the third
43 degree if the amount involved is at least \$500 but is less than \$75,000;
44 a crime of the fourth degree if the amount involved is at least \$200 but
45 is less than \$500; and a disorderly persons offense if the amount
46 involved is less than \$200 or if the benefit is not a pecuniary benefit.

1 This scheme is similar to the gradation scheme for theft offenses.

2 A crime of the second degree is punishable by imprisonment for
3 five to 10 years, a fine of up to \$150,000, or both; a crime of the third
4 degree by imprisonment for three to five years, a fine of up to
5 \$15,000, or both; and a crime of the fourth degree by imprisonment
6 for up to 18 months, fine of up to \$10,000, or both. A disorderly
7 persons offense is punishable by imprisonment for up to six months, a
8 fine of up to \$1,000, or both.

9 The provisions of this Senate Substitute for S-1367 are identical
10 to the provisions of the Assembly Committee Substitute for Assembly
11 Bill Nos. 2414, 1638 and 2456.

[Corrected Copy]

SENATE SUBSTITUTE FOR
SENATE, No. 1367

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED DECEMBER 10, 1998

Sponsored by:

Senator JOHN O. BENNETT

District 12 (Monmouth)

Senator NORMAN M. ROBERTSON

District 34 (Essex and Passaic)

Co-Sponsored by:

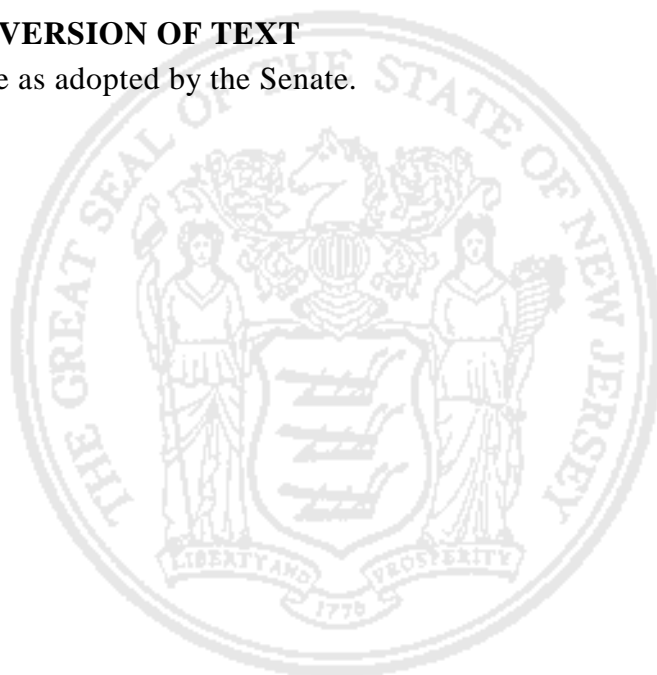
Senators Bucco, Kavanaugh, Martin, Inverso, Adler and Kyrillos

SYNOPSIS

Upgrades wrongful impersonation; establishes penalty for theft of identity.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.



1 AN ACT concerning wrongful impersonation and theft of identity and
2 amending N.J.S.2C:21-17.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.2C:21-17 is amended to read as follows:

8 2C:21-17. Impersonation; Theft of Identity; disorderly persons
9 offense, crime.

10 a. A person is guilty of **[a disorderly persons offense]** an offense
11 when he:

12 (1) Impersonates another or assumes a false identity and does an
13 act in such assumed character or false identity for purpose of obtaining
14 a pecuniary benefit for himself or another or to injure or defraud
15 another;

16 (2) Pretends to be a representative of some person or
17 organization and does an act in such pretended capacity for the
18 purpose of obtaining a benefit for himself or another or to injure or
19 defraud another; **[or]**

20 (3) Impersonates another, assumes a false identity or makes a
21 false or misleading statement regarding the identity of any person, in
22 an oral or written application for services, for the purpose of obtaining
23 services; or

24 (4) Obtains any personal identifying information pertaining to
25 another person and uses that information, or assists another person in
26 using the information, in order to assume the identity of or represent
27 themselves as another person, without that person's authorization and
28 with the intent to fraudulently obtain or attempt to obtain money,
29 credit, goods or services, or avoid the payment of debt or other legal
30 obligation or avoid prosecution for a crime in the name of the other
31 person without that person's consent.

32 As used in this paragraph: "personal identifying information"
33 means, but is not limited to, the name, address, telephone number,
34 social security number, place of employment, employee identification
35 number, demand deposit account number, savings account number,
36 credit card number or mother's maiden name of an individual person.

37 b. A person is guilty of an offense if he impersonates another or
38 assumes a false identity and does an act in such assumed character or
39 false identity for the purpose of obtaining a pecuniary benefit for
40 himself or another or to injure or defraud another. If the pecuniary
41 benefit received or the injury or fraud perpetrated on another is
42 \$75,000 or more, the offender is guilty of a crime of the second
43 degree. If the pecuniary benefit received or the injury or fraud

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 perpetrated on another is at least \$500, but is less than \$75,000, the
2 offender is guilty of a crime of the third degree. If the pecuniary
3 benefit received or the injury or fraud perpetrated on another is at least
4 \$200 but is less than \$500, the offender is guilty of a crime of the
5 fourth degree. If the pecuniary benefit received or the injury or fraud
6 perpetrated on another is less than \$200, the offender is guilty of a
7 disorderly persons offense.

8 c. (1) A person is guilty of an offense if the person pretends to be
9 a representative of some person or organization and does an act in
10 such pretended capacity for the purpose of obtaining a benefit for
11 himself or another or to injure or defraud another. If the benefit
12 received is a pecuniary benefit or the injury or fraud perpetrated on
13 another is \$75,000 or more, the offender is guilty of a crime of the
14 second degree. If the benefit received is a pecuniary benefit or the
15 injury or fraud perpetrated on another is a least \$500 but is less than
16 \$75,000, the offender is guilty of a crime of the third degree. If the
17 benefit received is a pecuniary benefit or the injury or fraud
18 perpetrated on another is at least \$200 but is less than \$500, the
19 offender is guilty of a crime of the fourth degree.

20 (2) If the benefit received is a pecuniary benefit less than \$200 or
21 if the benefit has no pecuniary value or if the injury or fraud
22 perpetrated on another has no pecuniary value then the person is guilty
23 of a disorderly persons offense.

24 **[b.] d.** A person is guilty of an offense if, in the course of making
25 an oral or written application for services, he impersonates another,
26 assumes a false identity or makes a false or misleading statement with
27 the purpose of obtaining services and avoiding payment for prior
28 services. If the payment sought to be avoided is \$75,000 or more, the
29 offender is guilty of a crime of the second degree. If the payment
30 sought to be avoided **[exceeds \$1,000,]** is at least \$500 but is less
31 than \$75,000, the offender is guilty of a crime of the third degree. If
32 the payment sought to be avoided is **[\$1,000 or less,]** at least \$200
33 but is less than \$500, the offender is guilty of a crime of the fourth
34 degree. Purpose to avoid payment for prior services may be presumed
35 upon proof that the person has not made full payment for prior
36 services and has impersonated another, assumed a false identity or
37 made a false or misleading statement regarding the identity of any
38 person in the course of making oral or written application for services.

39 e. (1) A person is guilty of an offense if he obtains any personal
40 identifying information pertaining to another person and uses that
41 information, or assists another person in using the information, in
42 order to assume the identity of or represent themselves as another
43 person, without that person's authorization and with the intent to
44 fraudulently obtain or attempt to obtain money, credit, goods or
45 services, or avoid the payment of debt or other legal obligation or
46 avoid prosecution for a crime in the name of the other person without

1 the consent of that person. If the benefit received is a pecuniary
2 benefit or the injury or fraud perpetrated on another is \$75,000 or
3 more, the offender is guilty of a crime of the second degree. If the
4 benefit received is a pecuniary benefit or the injury or fraud
5 perpetrated on another is at least \$500 but is less than \$75,000, the
6 offender is guilty of a crime of the third degree. If the benefit received
7 is a pecuniary benefit or the injury or fraud perpetrated on another is
8 at least \$200 but is less than \$500, the offender is guilty of a crime of
9 the fourth degree.

10 (2) If the benefit received is a pecuniary benefit less than \$200 or
11 if the benefit has no pecuniary value or if the injury or fraud
12 perpetrated on another has no pecuniary value then the person is guilty
13 of a disorderly persons offense.

14 f. This section shall not apply to a person subject to the penalties
15 provided under R.S.39:3-37 for using the personal information of
16 another to obtain a driver's license or register a motor vehicle, or to a
17 person subject to the penalties provided under R.S.33:1-81 or section
18 6 of P.L.1968. c.313 (C.33:1-81.7) for using the personal information
19 of another to illegally purchase an alcoholic beverage.

20 (cf: P.L.1995, c.417, s.1)

21
22 2. This act shall take effect immediately.

23
24
25 STATEMENT

26
27 This substitute amends N.J.S.2C:21-17 concerning wrongful
28 impersonation to specifically include identity theft in its provisions. It
29 provides that a person who obtains the personal identifying
30 information of another person and uses that information to obtain
31 credit, money, goods or services, or avoid the payment of a debt or
32 other legal obligation or avoid prosecution for a crime without the
33 consent of that person, is guilty of the offense of wrongful
34 impersonation or identity theft.

35 Personal identifying information is defined by the substitute as an
36 individual's name, address, telephone number, social security number,
37 place of employment, employee identification number, mother's maiden
38 name, demand deposit account number, savings account number, or
39 credit card number.

40 The substitute would generally upgrade the various wrongful
41 impersonation offenses and make these offenses a crime of the second
42 degree if the amount involved is \$75,000 or more; a crime of the third
43 degree if the amount involved is at least \$500 but is less than \$75,000;
44 a crime of the fourth degree if the amount involved is at least \$200 but
45 is less than \$500; and a disorderly persons offense if the amount
46 involved is less than \$200 or if the benefit is not a pecuniary benefit.

1 This scheme is similar to the gradation scheme for theft offenses.

2 A crime of the second degree is punishable by imprisonment for
3 five to 10 years, a fine of up to \$150,000, or both; a crime of the third
4 degree by imprisonment for three to five years, a fine of up to
5 \$15,000, or both; and a crime of the fourth degree by imprisonment
6 for up to 18 months, fine of up to \$10,000, or both. A disorderly
7 persons offense is punishable by imprisonment for up to six months, a
8 fine of up to \$1,000, or both.

9 The provisions of this Senate Substitute for S-1367 are identical
10 to the provisions of the Assembly Committee Substitute for Assembly
11 Bill Nos. 2414, 1638 and 2456.

SENATE, No. 1367

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED SEPTEMBER 24, 1998

Sponsored by:

Senator JOHN O. BENNETT

District 12 (Monmouth)

Senator NORMAN M. ROBERTSON

District 34 (Essex and Passaic)

Co-Sponsored by:

Senators Bucco, Kavanaugh, Martin, Inverso, Adler and Kyrillos

SYNOPSIS

Creates penalty for misuse of personal information.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the use of another person's personal information
2 for personal gain and supplementing chapter 21 of Title 2C of the
3 New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. a. It shall be unlawful to knowingly obtain any personal
9 identifying information pertaining to another person and to use that
10 information without that person's authorization to obtain or attempt to
11 obtain money, credit, goods or services in the name of the other
12 person without the consent of that person. "Personal identifying
13 information," as used in this act, means the name, address, telephone
14 number, social security number, place of employment, employee
15 identification number, demand deposit account number, savings
16 account number, credit card number or mother's maiden name of an
17 individual person.

18 b. A person who violates this act shall be guilty of a crime of the
19 second degree if the amount involved is \$75,000 or more; a crime of
20 the third degree if the amount involved is at least \$500 but is less than
21 \$75,000; a crime of the fourth degree if the amount involved is at
22 least \$200 but is less than \$500; and a disorderly persons offense if the
23 amount involved is less than \$200.

24 c. This act shall not apply to a person subject to the penalties
25 provided under R.S.39:3-37 for using the personal information of
26 another to obtain a driver's license or register a motor vehicle, or to a
27 person subject to the penalties provided under R.S.33:1-81 or section
28 6 of P.L.1968, c.313 (C.33:1-81.7) for using the personal information
29 of another to illegally purchase an alcoholic beverage.

30

31 2. This act shall take effect immediately.

32

33

34

STATEMENT

35

36 This bill provides a specific penalty for misusing the personal
37 information of another person to obtain money, credit, goods or
38 services in that person's name. An increase in such "identity theft" has
39 been fueled by the widespread use of credit cards and the growth of
40 electronic commerce. Horror stories abound about persons who have
41 been saddled with fraudulent debt or had their credit ruined by the
42 unauthorized use of their driver's license or credit card numbers.

43 This bill provides a range of penalties for the practice of identity
44 theft. A violator would be guilty of a crime of the second degree if the
45 offense involved an amount of \$75,000 or more; a crime of the third

S1367 BENNETT, ROBERTSON

3

1 degree if it involved at least \$500 but less than \$75,000; and a crime
2 of the fourth degree if it involved at least \$200 but is less than \$500.
3 The violator would be guilty of a disorderly persons offense if the
4 amount involved is less than \$200.

5 "Personal information" is defined by the bill as the name, address,
6 telephone number, social security number, place of employment,
7 employee identification number, demand deposit account number,
8 savings account number, credit card number or mother's maiden name
9 of an individual person.

10 The penalties in this bill would not apply to persons who misuse the
11 personal information of another to obtain a driver's license. This
12 offense is currently subject to penalty under the State's motor vehicle
13 laws.

SENATE LAW AND PUBLIC SAFETY COMMITTEE

STATEMENT TO

SENATE, No. 1367

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 15, 1998

The Senate Law and Public Safety Committee reports favorably and with committee amendments Senate Bill No. 1367.

As amended and released by the committee, this bill provides a specific penalty for misusing the personal information of another person to obtain money, credit, goods or services in that person's name.

The bill makes it unlawful to knowingly obtain any personal identifying information pertaining to another person and to use that information, or to assist another person in using the information in order to assume the identity of or represent themselves as another person, without that person's authorization and with the intent to fraudulently obtain or attempt to obtain money, credit, goods or services, or avoid the payment of debt or other legal obligation or avoid prosecution for a crime, in the name of the other person without the consent of that person.

This bill provides a range of penalties for the practice of identity theft. A violator would be guilty of a crime of the second degree if the offense involved an amount of \$75,000 or more; a crime of the third degree if it involved at least \$500 but less than \$75,000; and a crime of the fourth degree if it involved at least \$200 but less than \$500. The violator would be guilty of a disorderly persons offense if the amount involved is less than \$200.

"Personal information" as defined in the bill would include, but not be limited to, the name, address, telephone number, social security number, place of employment, employee identification number, demand deposit account number, savings account number, credit card number or mother's maiden name of an individual person.

The penalties in this bill would not apply to persons who misuse the personal information of another to obtain a driver's license or illegally purchase alcoholic beverages. These offenses are currently subject to penalties under the State's motor vehicle laws and alcoholic beverage laws.

According to the sponsor, an increase in such "identity theft" has been fueled by the widespread use of credit cards and the growth of electronic commerce. Horror stories abound about persons who have

been saddled with fraudulent debt or had their credit ruined by the unauthorized use of their driver's license or credit card numbers.

[First Reprint]

SENATE, No. 1367

STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED SEPTEMBER 24, 1998

Sponsored by:

Senator JOHN O. BENNETT

District 12 (Monmouth)

Senator NORMAN M. ROBERTSON

District 34 (Essex and Passaic)

Co-Sponsored by:

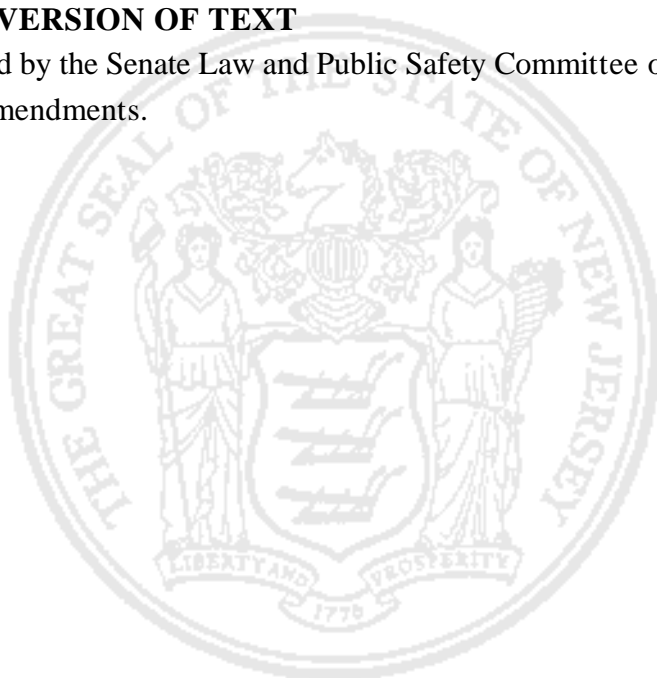
Senators Bucco, Kavanaugh, Martin, Inverso, Adler and Kyrillos

SYNOPSIS

Creates penalty for misuse of personal information.

CURRENT VERSION OF TEXT

As reported by the Senate Law and Public Safety Committee on October 15, 1998, with amendments.



1 AN ACT concerning the use of another person's personal information
2 for personal gain and supplementing chapter 21 of Title 2C of the
3 New Jersey Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. a. It shall be unlawful to knowingly obtain any personal
9 identifying information pertaining to another person and to use that
10 information ¹, or to assist another person in using the information in
11 order to assume the identity of or represent themselves as another
12 person,¹ without that person's authorization ¹and with the intent¹ to
13 ¹fraudulently¹ obtain or attempt to obtain money, credit, goods or
14 services ¹, or avoid the payment of debt or other legal obligation or
15 avoid prosecution for a crime,¹ in the name of the other person
16 without the consent of that person. "Personal identifying information,"
17 as used in this act, means ¹, but is not limited to,¹ the name, address,
18 telephone number, social security number, place of employment,
19 employee identification number, demand deposit account number,
20 savings account number, credit card number or mother's maiden name
21 of an individual person.

22 b. A person who violates this act shall be guilty of a crime of the
23 second degree if the amount involved is \$75,000 or more; a crime of
24 the third degree if the amount involved is at least \$500 but is less than
25 \$75,000; a crime of the fourth degree if the amount involved is at
26 least \$200 but is less than \$500; and a disorderly persons offense if the
27 amount involved is less than \$200.

28 c. This act shall not apply to a person subject to the penalties
29 provided under R.S.39:3-37 for using the personal information of
30 another to obtain a driver's license or register a motor vehicle, or to a
31 person subject to the penalties provided under R.S.33:1-81 or section
32 6 of P.L.1968, c.313 (C.33:1-81.7) for using the personal information
33 of another to illegally purchase an alcoholic beverage.

34

35 2. This act shall take effect immediately.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SLP committee amendments adopted October 15, 1998.

**ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY BILL NOS. 2414, 1638 AND 2456**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Committee Substitute for Assembly Bill Nos. 2414, 1638 and 2456 with my recommendations for reconsideration.

A. SUMMARY OF THE BILL

This bill criminalizes the obtaining of any personal identifying information pertaining to another person and using that information, or assisting another person in using that information, to pretend to be that person.

Under the bill, personal identifying information includes name, address, telephone number, social security number, place of employment, employee identification number, demand deposit account number, savings account number, credit card number and mother's maiden name.

Obtaining and using personal identifying information would be a crime only if it were done (1) without the authorization of the person whose identity was obtained and used (2) with the intent to obtain a benefit. The bill specifies the unlawful benefits as follows: fraudulently obtaining or attempting to obtain money, credit, goods or services, or avoiding the payment of a debt or other legal obligation or avoiding prosecution for a crime in the name of the other person without that person's consent.

The bill also grades the new offense, as well as several existing offenses, based on the amount of the pecuniary benefit or the value of the injury or fraud perpetrated on the person. The existing offenses include: (1) impersonating another or assuming a false identity, and then doing something; (2) pretending to be a representative of a person or organization and doing something; and (3) impersonating another, assuming a false identity or making a false or misleading statement regarding the identity of a person in an oral or written application for services for the purpose of obtaining those services.

The bill grades those offenses, based on the value of the benefit, as follows: second degree - benefit of \$75,000 or more; third degree - benefit of at least \$500 but less than \$75,000; fourth degree - benefit of at least \$200 but less than \$500; and disorderly persons offense - benefit of less than \$200 or no pecuniary value at all.

Under current law, the existing offenses are all disorderly persons offenses.

Finally, the bill specifies that it does not apply to a person subject to penalties for using the personal information of another to obtain a driver's license or register a motor vehicle or to illegally purchase an alcoholic beverage.

B. RECOMMENDED ACTION

I fully support the substantive proposals in Assembly Committee Substitute for Assembly Bill Nos. 2414, 1638 and 2456 because I recognize, and definitely agree with,

the need to deter and punish those who falsely impersonate another or who use personal identifying information to obtain a pecuniary benefit. Nevertheless, I feel compelled to return the bill with my recommendations for reconsideration because I am advised that technical changes are needed to more fully ensure that the bill is applied in accord with the Legislature's intent and so that unintended legal defenses are not available to the very people whom we rightfully seek to punish. The recommended changes are not intended to alter the scope or meaning of the bill in any way. Instead, they are designed to clarify some of the language in the bill and eliminate unnecessary and potentially confusing provisions.

For example, even though subsection a. of section one sets forth the acts that constitute offenses, the criminalization of those very offenses is repeated in later subsections of the same section. This repetition is not only unnecessary but, more to the point, confusing, thereby increasing the likelihood of application of the act in a way not intended by the Legislature.

An additional example can be found in section 1a(4), which provides that a person commits an offense if he "obtains personal identifying information pertaining to another person and uses that information . . . [to] avoid prosecution for a crime in the name of the other person without that person's consent." It seems clear to me that the "consent" is intended to refer to the use of the identifying information and not consent to "avoid prosecution." My concern is that the confusion caused by the drafting of the bill may give rise to significant unanticipated and unwanted challenges when the bill is applied.

Finally, and most importantly, subsection f. of section one provides, in pertinent part, that "[t]his section shall not apply to a person subject to the penalties provided under R.S. 39:3-37 for using the personal information of another to obtain a driver's license or register a motor vehicle, or to a person subject to the penalties provided under R.S. 33:1-81 or section 6 of P.L.1968, c.313 (C.33:1-81.7) for using the personal information of another to illegally purchase an alcoholic beverage." (emphasis added). By using the broad language of a person "subject to" certain penalties, the bill may unintentionally create a defense to a prosecution for identity theft when the use of personal information is not limited to obtaining a driver's license, registering a motor vehicle or purchasing alcoholic beverages but also involves obtaining a pecuniary benefit. For example, if a person used personal identifying information to obtain a driver's license, and then used that driver's license to commit extensive credit card and other types of fraud, a judge would need to decide whether or not, by virtue of obtaining a driver's license, the person would be "subject" to the specific penalties associated with that motor vehicle offense. If the person were "subject" to those penalties, then, by operation of subsection f., this bill's penalties for identity theft would not, and could not, apply. This anomalous result is clearly not the intent of the sponsors and is easily avoided by the technical changes I recommend.

Therefore, I herewith return Assembly Committee Substitute for Assembly Bill Nos. 2414, 1638 and 2456 and recommend that it be amended as follows:

- Page 2, Section 1, Line 28: Delete "intent" insert "purpose"
- Page 2, Section 1, Lines 28-29: Delete "money, credit, goods" insert "a pecuniary benefit"
- Page 2, Section 1, Line 30: Delete "in" insert "by using"
- Page 2, Section 1, Line 31: Delete "without that person's consent"
- Page 2, Section 1, Lines 37-43: After "b." delete in its entirety
- Page 3, Lines 1-23: Delete in its entirety
- Page 3, Section 1, Line 24: Delete "d."
- Page 3, Section 1, Line 27: Delete "obtaining services and"
- Page 3, Section 1, Lines 28: After "services." delete remainder of line
- Page 3, Section 1, Lines 29-33: Delete in its entirety
- Page 3, Section 1, Line 34: Delete "degree."
- Page 3, Section 1, Line 39: Delete "e." insert "c."; after "person" insert "who violates subsection a. or b. of this section"; after "of" delete remainder of line
- Page 3, Section 1, Lines 40-46: Delete in its entirety
- Page 4, Section 1, Line 1: Delete "the consent of that person. If the benefit received is" insert "crime of the second degree if the"
- Page 4, Section 1, Line 2: After "benefit" insert ", the value of the services received, the payment sought to be avoided"
- Page 4, Section 1, Line 3: After "more" delete ", the offender is guilty of a crime of the second degree"
- Page 4, Section 1, Line 4: Delete "benefit received is a"; after "benefit" insert ", the value of the services received, the payment sought to be avoided"
- Page 4, Section 1, Lines 6-7: Delete "benefit received is a"
- Page 4, Section 1, Line 7: After "benefit" insert ", the value of the services received, the payment sought to be avoided"
- Page 4, Section 1, Line 10: Delete "benefit received is a"; after "pecuniary benefit" insert ", the value of the services received, the payment sought to be avoided or the injury or fraud perpetrated on another is"
- Page 4, Section 1, Line 10: After "\$200" insert ", "

- Page 4, Section 1, Line 11: Delete “has no pecuniary value”; after “or” delete “if” and insert “services received or”
- Page 4, Section 1, Line 12: After “value” insert “, or if the person was unsuccessful in an attempt to receive a benefit or services or to injure or perpetrate a fraud on another,”
- Page 4, Section 1, Line 14: Delete line in its entirety_
- Page 4, Section 1, Line 15: Delete “provided under” insert “d. A violation of”
- Page 4, Section 1, Line 16: After “vehicle” delete “,”
- Page 4, Section 1, Lines 16-17: Delete “to a person subject to the penalties provided under” insert “a violation of”
- Page 4, Section 1, Line 19: After “beverage” insert “shall not constitute an offense under this section if the actor received only that benefit or service and did not perpetrate or attempt to perpetrate any additional injury or fraud on another”

Respectfully,

Christine Todd Whitman
Governor

Attest:

John J. Farmer, Jr.
Chief Counsel to the Governor

PO BOX 004
TRENTON, NJ 08625

Office of the Governor
NEWS RELEASE

CONTACT: Jayne O'Connor
Gene Herman
609-777-2600

RELEASE: February 11, 1999

Gov. Christie Whitman today conditionally vetoed the following piece of legislation:

ACS for A-2414, A-1638 and A-2456, which would have criminalized the obtaining of any personal identifying information pertaining to another person and using that information, or assisting another person in using that information, to pretend to be that person.

Under the bill, personal identifying information includes name, address, telephone number, social security number, place of employment, employee identification number, demand deposit account number, savings account number, credit card number and mother's maiden name. Obtaining and using personal identifying information would be a crime only if it were done without the authorization of the person whose identity was obtained and used with the intent to obtain a benefit.

In her conditional veto, the Governor said she supported the substantive proposals in the bill because she recognized and definitely agreed with, the need to deter and punish those who falsely impersonate another or who use personal identifying information to obtain a pecuniary benefit. Nevertheless, she said, she felt compelled to return the bill with recommendations for reconsideration because she was advised that technical changes were needed to more fully ensure that the bill is applied in accord with the Legislature's intent and so that unintended legal defenses are not available to the people the State rightfully seeks to punish.

The Governor said the recommended changes were not intended to alter the scope or meaning of the bill in any way. Instead, she said, they are designed to clarify some of the language in the bill and eliminate unnecessary and potentially confusing provisions. For example, the Governor said, even though subsection a. of section one sets forth the acts that constitute offenses, the criminalization of those very offenses is repeated in later subsections of the same section. Gov. Whitman said the repetition is not only unnecessary, but confusing, thereby increasing the likelihood of application of the act in a way not intended by the Legislature. She said her concern was that the confusion caused by the drafting of the bill may give rise to significant unanticipated and unwanted challenges when the bill is applied.

The bill was sponsored by Assembly Members Alan M. Augustine (R-Middlesex/Morris/Somerset/Union), Richard A. Merkt (R-Morris), Nellie Pou (D-Passaic), John S. Wisniewski (D-Middlesex) and Neil M. Cohen (D-Union) and Senators John O. Bennett (R-Monmouth) and Norman M. Robertson (R-Essex/Passaic).

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Gene Herman
609-777-2600

RELEASE: May 21, 1999

Gov. Christie Whitman today signed the following pieces of legislation:

A-415w/GR, sponsored by Assembly Members Jeffrey W. Moran (R-Atlantic/Burlington/Ocean) and Anthony Impreveduto (D-Bergen/Hudson) and Senators Robert W. Singer (R-Burlington/Monmouth/Ocean) and Edward T. O'Connor, Jr. (D-Hudson, revises licensing provisions for orthotists and prosthetists. The bill, which incorporates recommendations made by the Governor in her conditional veto of the previous bill on March 15, 1999, sets up two methods for licensure for orthotists and prosthetists. The first method for licensure requires obtaining a bachelor's degree, completing a clinical internship of not less than 1900 hours, and passing all written, practical and oral examinations required by the Orthotists and Prosthetists Board of Examiners.

The second method requires an associate's degree in science with course work in biology, anatomy and physiology, physics and chemistry, completing a clinical practice of not less than 1900 hours, and passing all written, practical and oral examinations required by the board. After the five-year period, a bachelor's degree would be required. The second method for licensure would be in effect for five years to allow some flexibility in the licensing process. Such flexibility was added to address concerns by some in the profession that there is a current shortage of orthotists and prosthetists. The bill also establishes a grandfathering provision that allows applicants with three years of experience in an established orthotic-prosthetic facility to be licensed within 180 days after the date procedures are established by the board for applying for licensure upon investigation by the board of the applicant's work experience.

A-2367, sponsored by Assembly Members Richard H. Bagger (R-Middlesex/Morris/Somerset/Union) and David W. Wolfe (R-Monmouth/Ocean) and Senators Joseph M. Kyrillos, III (R-Middlesex/Monmouth) and Peter A. Inverso (R-Mercer/Middlesex), excludes earnings in qualified state tuition program accounts and defers earnings in education individual retirement accounts from gross income taxation. The legislation, which incorporates the recommendations made by the Governor in her conditional veto of the previous bill on March 15, 1999, excludes from the New Jersey Gross Income Tax earnings on qualified state tuition savings accounts. The bill defers from the New Jersey Gross Income Tax earnings on educational individual retirement accounts until the money is withdrawn.

ACS for A-2414, A-1638 and A-2456, sponsored by Assembly Members Alan M. Augustine (R-Middlesex/Morris/Somerset/Union) and Richard A. Merkt (R-Morris, Nellie Pou, D-Passaic), John S. Wisniewski (D-Middlesex) and Neil M. Cohen (D-Union), criminalizes the obtaining of any personal identifying information pertaining to another person and using that information, or assisting another person in using that information, to pretend to be that person. Under the bill, personal identifying information includes name, address, telephone number, social security number, place of employment, employee identification number, demand deposit account number, savings account number, credit card number and mother's maiden name. The bill incorporates the recommendations that the Governor made in her

conditional veto of the original bill on Feb. 11, 1999. Obtaining and using personal identifying number information would be a crime only if it were done without the authorization of the person whose identity was obtained and used with the intent to obtain a benefit. The bill grades the new offense, as well as several existing offenses, based on the amount of the pecuniary benefit or the value of the injury or fraud perpetrated on the person