

AN ACT
RELATING TO CRIMINAL LAW; CREATING A NEW CRIMINAL OFFENSE
KNOWN AS THEFT OF IDENTITY; PRESCRIBING PENALTIES; ENACTING A
NEW SECTION OF THE CRIMINAL CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted to read:

"THEFT OF IDENTITY. --

A. Theft of identity consists of willfully obtaining, recording or transferring personal identifying information of another person without the authorization or consent of that person and with the intent to defraud that person or another.

B. As used in this section, "personal identifying information" means information that alone or in conjunction with other information identifies a person, including the person's name, address, telephone number, driver's license number, social security number, place of employment, maiden name of the person's mother, demand deposit account number, checking or savings account number, credit card or debit card number, personal identification number, passwords or any other numbers or information that can be used to access a person's financial resources.

C. Whoever commits theft of identity is guilty of

HJC/HB 317
HCPAC/HB 347

a misdemeanor.

D. Prosecution pursuant to this section shall not prevent prosecution pursuant to any other provision of the law when the conduct also constitutes a violation of that other provision.

E. In a prosecution brought pursuant to this section, the theft of identity shall be considered to have been committed in the county where the person whose identifying information was appropriated resided at the time of the offense, or in which any part of the offense took place, regardless of whether the defendant was ever actually present in the county.

F. A person found guilty of theft of identity shall, in addition to any other punishment, be ordered to make restitution for any financial loss sustained by a person injured as the direct result of the theft of identity. In addition to out-of-pocket costs, restitution may include payment for costs, including attorney fees, incurred by that person in clearing his credit history or credit rating or costs incurred in connection with a civil or administrative proceeding to satisfy a debt, lien, judgment or other obligation of that person arising as a result of the theft of identity.

G. The sentencing court shall issue written findings of fact and may issue orders as are necessary to

correct a public record that contains false information as a result of the theft of identity."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2001. _____