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**HOUSE BILL 317**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Judy Vanderstar Russell**

**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:**

**"[NEW MATERIAL] 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 injure or  
defraud that person or another.**

**B. As used in this section, "personal identifying  
information" means information that alone or in conjunction**

underscored material = new  
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1 with other information identifies a person, including the  
2 person's name, address, telephone number, driver's license  
3 number, social security number, place of employment, maiden  
4 name of the person's mother, demand deposit account number,  
5 checking or savings account number, credit card or debit card  
6 number, personal identification number, passwords or any other  
7 numbers or information that can be used to access a person's  
8 financial resources.

9 C. Whoever commits theft of identity is guilty of  
10 a petty misdemeanor.

11 D. Whoever commits theft of identity and uses the  
12 personal identifying information of another person to obtain  
13 or attempt to obtain money, credit, goods, services or  
14 anything of value and the value is two hundred fifty dollars  
15 (\$250) or less is guilty of a misdemeanor.

16 E. Whoever commits theft of identity and uses the  
17 personal identifying information of another person to obtain  
18 money, credit, goods, services or anything of value and the  
19 value is over two hundred fifty dollars (\$250) but not more  
20 than two thousand five hundred dollars (\$2,500) is guilty of a  
21 fourth degree felony.

22 F. Whoever commits theft of identity and uses the  
23 personal identifying information of another person to obtain  
24 money, credit, goods, services or anything of value and the  
25 value is over two thousand five hundred dollars (\$2,500) but

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1 not more than twenty thousand dollars (\$20,000) is guilty of a  
2 third degree felony.

3 G. Whoever commits theft of identity and uses the  
4 personal identifying information of another person to obtain  
5 money, credit, goods, services or anything of value and the  
6 value is over twenty thousand dollars (\$20,000) is guilty of a  
7 second degree felony.

8 H. Prosecution pursuant to this section shall not  
9 prevent prosecution pursuant to any other provision of the law  
10 when the conduct also constitutes a violation of that other  
11 provision.

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

19 J. A person found guilty of theft of identity  
20 shall, in addition to any other punishment, be ordered to make  
21 restitution for any financial loss sustained by a person  
22 injured as the direct result of the theft of identity. In  
23 addition to out-of-pocket costs, restitution may include  
24 payment for costs, including attorney fees, incurred by that  
25 person in clearing his credit history or credit rating or

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1 costs incurred in connection with a civil or administrative  
2 proceeding to satisfy a debt, lien, judgment or other  
3 obligation of that person arising as a result of the theft of  
4 identity.

5 K. The sentencing court may issue orders as are  
6 necessary to correct a public record that contains false  
7 information as a result of the theft of identity. "

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