

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL 317 AND  
HOUSE CONSUMER AND PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 347

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

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 defraud that  
person or another.

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

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 and uses the  
10 personal identifying information of another person to obtain  
11 or attempt to obtain money, credit, goods, services or  
12 anything of value and the value is one hundred dollars (\$100)  
13 or less is guilty of a petty misdemeanor.

14 D. Whoever commits theft of identity and uses the  
15 personal identifying information of another person to obtain  
16 or attempt to obtain money, credit, goods, services or  
17 anything of value and the value is over one hundred dollars  
18 (\$100) but not more than one thousand dollars (\$1,000) is  
19 guilty of a misdemeanor.

20 E. Whoever commits theft of identity and uses the  
21 personal identifying information of another person to obtain  
22 money, credit, goods, services or anything of value and the  
23 value is over one thousand dollars (\$1,000) but not more than  
24 two thousand five hundred dollars (\$2,500) is guilty of a  
25 fourth degree felony.

1 F. Whoever commits theft of identity and uses the  
2 personal identifying information of another person to obtain  
3 money, credit, goods, services or anything of value and the  
4 value is over two thousand five hundred dollars (\$2,500) but  
5 not more than twenty thousand dollars (\$20,000) is guilty of a  
6 third degree felony.

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

12 H. Prosecution pursuant to this section shall not  
13 prevent prosecution pursuant to any other provision of the law  
14 when the conduct also constitutes a violation of that other  
15 provision.

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

23 J. A person found guilty of theft of identity  
24 shall, in addition to any other punishment, be ordered to make  
25 restitution for any financial loss sustained by a person

1 injured as the direct result of the theft of identity. In  
2 addition to out-of-pocket costs, restitution may include  
3 payment for costs, including attorney fees, incurred by that  
4 person in clearing his credit history or credit rating or  
5 costs incurred in connection with a civil or administrative  
6 proceeding to satisfy a debt, lien, judgment or other  
7 obligation of that person arising as a result of the theft of  
8 identity.

9 K. The sentencing court shall issue written  
10 findings of fact and may issue orders as are necessary to  
11 correct a public record that contains false information as a  
12 result of the theft of identity."

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