

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.