

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

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

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

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

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

23 F. Whoever commits theft of identity and uses the
24 personal identifying information of another person to obtain
25

underscoring material = new
[bracketed material] = delete

1 money, credit, goods, services or anything of value and the
2 value is over two thousand five hundred dollars (\$2,500) but
3 not more than twenty thousand dollars (\$20,000) is guilty of a
4 third degree felony.

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

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

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

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

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

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