

IDENTITY THEFT AMENDMENT

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carlene M. Walker

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding the crime of identity fraud.

Highlighted Provisions:

This bill:

▶ ~~§~~ → [~~authorizes~~] directs ← ~~§~~ the court to order restitution to the victim of an identity fraud offense ~~§~~ → or state on the record why restitution is not appropriate ← ~~§~~ ; and

▶ specifies that restitution related to an offense of identity fraud may include:

- attorney fees, lost wages, and other costs; and
- the victim's time involved in dealing with the offense, including administrative hearings and clearing the victim's record.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-1102, as last amended by Laws of Utah 2007, Chapter 94

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-6-1102** is amended to read:



28 **76-6-1102. Identity fraud crime.**

29 (1) ~~[For purposes of]~~ As used in this part, "personal identifying information" may
30 include:

31 (a) name;

32 (b) birth date;

33 ~~[(b)]~~ (c) address;

34 ~~[(c)]~~ (d) telephone number;

35 ~~[(d)]~~ (e) ~~[driver's]~~ drivers license number;

36 ~~[(e)]~~ (f) Social Security number;

37 ~~[(f)]~~ (g) place of employment;

38 ~~[(g)]~~ (h) employee identification numbers or other personal identification numbers;

39 ~~[(h)]~~ (i) mother's maiden name;

40 ~~[(i)]~~ (j) electronic identification numbers;

41 ~~[(j)]~~ (k) electronic signatures under Title 46, Chapter 4, Uniform Electronic

42 Transactions Act; or

43 ~~[(k)]~~ (l) any other numbers or information that can be used to access a person's
44 financial resources or medical information, except for numbers or information that can be
45 prosecuted as financial transaction card offenses under Sections 76-6-506 through 76-6-506.4.

46 (2) (a) A person is guilty of identity fraud when that person:

47 (i) obtains personal identifying information of another person whether that person is
48 alive or deceased; and

49 (ii) knowingly or intentionally uses, or attempts to use, that information with fraudulent
50 intent, including to obtain, or attempt to obtain, credit, goods, services, any other thing of
51 value, or medical information.

52 (b) It is not a defense to a violation of Subsection (2)(a) that the person did not know
53 that the personal information belonged to another person.

54 (3) Identity fraud is:

55 (a) except as provided in Subsection (3)(b)(ii), a third degree felony ~~[of the third~~
56 ~~degree]~~ if the value of the credit, goods, services, or any other thing of value is less than
57 \$5,000; or

58 (b) a second degree felony ~~[of the second degree]~~ if:

59 (i) the value of the credit, goods, services, employment, or any other thing of value is
60 or exceeds \$5,000; or

61 (ii) the use described in Subsection (2)(a)(ii) of personal identifying information
62 results, directly or indirectly, in bodily injury to another person.

63 (4) Multiple violations may be aggregated into a single offense, and the degree of the
64 offense is determined by the total value of all credit, goods, services, or any other thing of
65 value used, or attempted to be used, through the multiple violations.

66 (5) When a defendant is convicted of a violation of this section, the court ~~shall~~ [may]
66a shall ~~shall~~ order the
67 defendant to make restitution to any victim of the offense ~~shall~~ or state on the record the reason
67a the court does not find ordering restitution to be appropriate ~~shall~~ .

67b ~~shall~~ (6) ~~shall~~ Restitution ~~shall~~ under Subsection (5) ~~shall~~ may include:

68 (a) payment for any costs incurred, including attorney fees, lost wages, and
69 replacement of checks; and

70 (b) the value of the victim's time incurred due to the offense:

71 (i) in clearing the victim's credit history or credit rating;

72 (ii) in any civil or administrative proceedings necessary to satisfy or resolve any debt,
73 lien, or other obligation of the victim or imputed to the victim and arising from the offense; and

74 (iii) in attempting to remedy any other intended or actual harm to the victim incurred as
75 a result of the offense.

Legislative Review Note
as of 12-4-07 9:47 AM

Office of Legislative Research and General Counsel

S.B. 52 - Identity Theft Amendment

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Victims of identity theft will benefit from the enactment of this bill as the Courts will be authorized to order restitution from the offender in the form of attorney fees, lost wages, and other costs including the victim's time involved in dealing with the offense, including administrative hearings and clearing the victim's record.
