

IDENTITY THEFT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates new causes of action for identity theft.

Highlighted Provisions:

This bill:

▶ allows a petitioner injured by certain financial transaction card offenses to bring a civil action against the perpetrator to recover damages, attorney fees, and court costs; and

▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-1701, as enacted by Laws of Utah 2010, Chapter 143

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

Section 1. Section **78B-6-1701** is amended to read:

78B-6-1701. Cause of action for identity theft.

(1) As used in this section, "financial transaction card offense section" means:



- 28 (a) Section 76-6-506.2;
- 29 (b) Section 76-6-506.3;
- 30 (c) Section 76-6-506.5;
- 31 (d) Section 76-6-506.6; or
- 32 (e) Section 76-6-506.7.

33 ~~[(1)]~~ (2) A petitioner who has been injured by a violation of a financial transaction card
34 offense section, Section 76-6-1102, Identity Fraud, or Section 76-10-1801, Communications
35 Fraud, may recover from the perpetrator:

- 36 (a) compensatory damages in the amount of \$1,000 or up to three times the amount of
37 actual damages, whichever is greater;
- 38 (b) attorney fees; and
- 39 (c) court costs.

40 ~~[(2)]~~ (3) Actual damages may include:

- 41 (a) replacement or reissuance costs for checks and any personal identification
42 documents;
- 43 (b) the value of the petitioner's time spent:
 - 44 (i) repairing ~~[their]~~ the petitioner's credit history or rating; and
 - 45 (ii) attending civil or administrative hearings necessary to resolve any debt, lien, or
46 other obligation arising from the offense;
- 47 (c) lost wages; and
- 48 (d) any other verifiable costs the court may choose to include.

49 ~~[(3)]~~ (4) The court may award punitive damages in addition to compensatory damages.

50 ~~[(4)]~~ (5) A perpetrator who is not tried or found not guilty of a violation of a financial
51 transaction card offense section, Section 76-6-1102, Identity Fraud, or Section 76-10-1801,
52 Communications Fraud, may be found liable under this section if the court finds by a
53 preponderance of the evidence that the perpetrator participated in a violation and the petitioner
54 was injured as a result.

55 ~~[(5)]~~ (6) (a) A perpetrator who is found guilty of a violation of a financial transaction
56 card offense section, Section 76-6-1102, Identity Fraud, or Section 76-10-1801,
57 Communications Fraud, shall be found liable under this section.

58 (b) If restitution was ordered in the criminal action, the amount ordered shall be

59 deducted from any damages awarded under this section.