

**IDENTITY FRAUD AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Peter C. Knudson**

**This act modifies the Criminal Code regarding identity fraud offenses by providing that in addition to law enforcement agencies, the Office of the Attorney General has responsibility for investigating these offenses. This act also removes this responsibility from the Division of Consumer Protection.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**76-6-1102**, as last amended by Chapter 122, Laws of Utah 2002

**76-6-1103**, as last amended by Chapter 122, Laws of Utah 2002

**76-10-1602**, as last amended by Chapter 166, Laws of Utah 2002

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

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

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

(1) For purposes of this part, "personal identifying information" may include:

- (a) name;
- (b) address;
- (c) telephone number;
- (d) driver's license number;
- (e) Social Security number;
- (f) place of employment;
- (g) employee identification numbers or other personal identification numbers;
- (h) mother's maiden name;
- (i) electronic identification numbers;
- (j) digital signatures or a private key; or
- (k) any other numbers or information that can be used to access a person's financial resources or medical information in the name of another person without the consent of that

person except for numbers or information that can be prosecuted as financial transaction card offenses under Sections 76-6-506 through 76-6-506.4.

(2) A person is guilty of identity fraud when that person knowingly or intentionally:

(a) obtains personal identifying information of another person [~~without the authorization of that person~~]; and

(b) uses, or attempts to use, that information with fraudulent intent, including to obtain, or attempt to obtain, credit, goods, services, any other thing of value, or medical information in the name of another person [~~without the consent of that person~~].

(3) Identity fraud is:

~~[(a) a class B misdemeanor if the value of the credit, goods, services, or any other thing of value is less than \$300;]~~

~~[(b) a class A misdemeanor if:]~~

~~[(i) a value cannot be determined and the personal identifying information has been used without the consent of that person to obtain medical information or to obtain employment; or]~~

~~[(ii) the value of the credit, goods, services, or any other thing of value is or exceeds \$300 but is less than \$1,000;]~~

(a) a class A misdemeanor if the value of the credit, goods, services, or any other thing of value is less than \$1,000;

~~[(c)]~~ (b) a third degree felony if the value of the credit, goods, services, or any other thing of value is or exceeds \$1,000 but is less than \$5,000; or

~~[(d)]~~ (c) a second degree felony if the value of the credit, goods, services, or any other thing of value is or exceeds \$5,000.

(4) Multiple violations [~~within a 90-day period~~] may be aggregated into a single offense, and the degree of the offense is determined by the total value of all credit, goods, services, or any other thing of value used, or attempted to be used, through the multiple violations.

Section 2. Section **76-6-1103** is amended to read:

**76-6-1103. Investigation, jurisdiction, and prima facie evidence of violation.**

(1) In any criminal proceeding brought pursuant to this section, the crime shall be

considered to have been committed in any county in which any part of the identity fraud took place, regardless of whether the defendant was ever actually in that county.

(2) In addition to investigations conducted by law enforcement agencies, the [~~Division of Consumer Protection~~] Office of the Attorney General also has responsibility for investigating violations of this part where identity fraud is the primary violation that is alleged to have been committed.

~~[(3) A criminal conviction under this part is prima facie evidence of a violation of Section 13-11-4, of the Utah Consumer Sales Practices Act.]~~

~~[(4) Any violation of this part constitutes a violation of Section 13-11-4, of the Utah Consumer Sales Practices Act.]~~

Section 3. Section **76-10-1602** is amended to read:

**76-10-1602. Definitions.**

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request,

command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Chapter 13, Wildlife Resources Code of Utah, or Section 23-20-4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32A, Chapter 12, Criminal Offenses;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, or Title 58, Chapter 37c, Utah Controlled Substance Precursor Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63, Chapter 56, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a terroristic threat, Section 76-5-107;

(l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;

- (m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;
- (n) sexual exploitation of a minor, Section 76-5a-3;
- (o) arson or aggravated arson, Sections 76-6-102 and 76-6-103;
- (p) causing a catastrophe, Section 76-6-105;
- (q) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;
- (r) burglary of a vehicle, Section 76-6-204;
- (s) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;
- (t) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- (u) theft, Section 76-6-404;
- (v) theft by deception, Section 76-6-405;
- (w) theft by extortion, Section 76-6-406;
- (x) receiving stolen property, Section 76-6-408;
- (y) theft of services, Section 76-6-409;
- (z) forgery, Section 76-6-501;
- (aa) fraudulent use of a credit card, Sections 76-6-506.1, 76-6-506.2, and 76-6-506.4;
- (bb) deceptive business practices, Section 76-6-507;
- (cc) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;
- (dd) bribery of a labor official, Section 76-6-509;
- (ee) defrauding creditors, Section 76-6-511;
- (ff) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- (gg) unlawful dealing with property by fiduciary, Section 76-6-513;
- (hh) bribery or threat to influence contest, Section 76-6-514;
- (ii) making a false credit report, Section 76-6-517;
- (jj) criminal simulation, Section 76-6-518;
- (kk) criminal usury, Section 76-6-520;
- (ll) false or fraudulent insurance claim, Section 76-6-521;
- (mm) computer crimes, Section 76-6-703;

- ~~(nn)~~ (nn) identity fraud, Section 76-6-1102;
- ~~(mm)~~ (oo) sale of a child, Section 76-7-203;
- ~~(oo)~~ (pp) bribery to influence official or political actions, Section 76-8-103;
- ~~(pp)~~ (qq) threats to influence official or political action, Section 76-8-104;
- ~~(qq)~~ (rr) receiving bribe or bribery by public servant, Section 76-8-105;
- ~~(rr)~~ (ss) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;
- ~~(ss)~~ (tt) official misconduct, Sections 76-8-201 and 76-8-202;
- ~~(tt)~~ (uu) obstruction of justice, Section 76-8-306;
- ~~(uu)~~ (vv) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- ~~(vv)~~ (ww) false or inconsistent material statements, Section 76-8-502;
- ~~(ww)~~ (xx) false or inconsistent statements, Section 76-8-503;
- ~~(xx)~~ (yy) written false statements, Section 76-8-504;
- ~~(yy)~~ (zz) tampering with a witness, retaliation against a witness or informant, or bribery, Section 76-8-508;
- ~~(zz)~~ (aaa) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- ~~(aaa)~~ (bbb) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;
- ~~(bbb)~~ (ccc) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(1)(f);
- ~~(ccc)~~ (ddd) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;
- ~~(ddd)~~ (eee) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;
- ~~(eee)~~ (fff) possession of a deadly weapon with intent to assault, Section 76-10-507;
- ~~(fff)~~ (ggg) unlawful marking of pistol or revolver, Section 76-10-521;
- ~~(ggg)~~ (hhh) alteration of number or mark on pistol or revolver, Section 76-10-522;

~~[(hhh)]~~ (iii) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

~~[(iii)]~~ (jii) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

~~[(jjj)]~~ (kkk) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

~~[(kkk)]~~ (lll) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

~~[(Hh)]~~ (mmm) gambling, Section 76-10-1102;

~~[(mmm)]~~ (nnn) gambling fraud, Section 76-10-1103;

~~[(mm)]~~ (ooo) gambling promotion, Section 76-10-1104;

~~[(ooo)]~~ (ppp) possessing a gambling device or record, Section 76-10-1105;

~~[(ppp)]~~ (qqq) confidence game, Section 76-10-1109;

~~[(qqq)]~~ (rrr) distributing pornographic material, Section 76-10-1204;

~~[(rrr)]~~ (sss) inducing acceptance of pornographic material, Section 76-10-1205;

~~[(sss)]~~ (ttt) dealing in harmful material to a minor, Section 76-10-1206;

~~[(ttt)]~~ (uuu) distribution of pornographic films, Section 76-10-1222;

~~[(uuu)]~~ (vvv) indecent public displays, Section 76-10-1228;

~~[(vvv)]~~ (www) prostitution, Section 76-10-1302;

~~[(www)]~~ (xxx) aiding prostitution, Section 76-10-1304;

~~[(xxx)]~~ (yyy) exploiting prostitution, Section 76-10-1305;

~~[(yyy)]~~ (zzz) aggravated exploitation of prostitution, Section 76-10-1306;

~~[(zzz)]~~ (aaaa) communications fraud, Section 76-10-1801;

~~[(aaaa)]~~ (bbbb) any act prohibited by the criminal provisions of Title 76, Chapter 10, Part 19, Money Laundering and Currency Transaction Reporting Act;

~~[(bbbb)]~~ (cccc) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

~~[(cccc)]~~ (dddd) any act illegal under the laws of the United States and enumerated in

Title 18, Section 1961 (1)(B), (C), and (D) of the United States Code.