

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:

- ▶ 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:

76-6-1102. Identity fraud crime.

(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 financial
44 resources or medical information, except for numbers or information that can be prosecuted as
45 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 value,
51 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 degree]~~
56 if the value of the credit, goods, services, or any other thing of value is less than \$5,000; or

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

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

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

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

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

68 (6) Restitution under Subsection (5) may include:

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

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

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

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

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