

**IDENTITY FRAUD AND RELATED AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

House Sponsor: Bradley G. Last

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**LONG TITLE**

**General Description:**

This bill modifies ~~§~~→ [the Utah Workforce Services Code and] ←~~§~~ the Utah Criminal Code to address identity fraud and suspected misuse of personal identifying information.

**Highlighted Provisions:**

This bill:

~~§~~→ [→ addresses the new hire registry;] ←~~§~~

▶ modifies the identity fraud provision to address persons providing or attempting to provide credit, goods, services, employment, a thing of value, or medical information; and

▶ makes technical and conforming changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

~~§~~→ [→ 35A-7-107, as last amended by Laws of Utah 2008, Chapter 382] ←~~§~~

76-6-1102, as last amended by Laws of Utah 2009, Chapter 164

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



28           **§→** [Section 1. ~~Section 35A-7-107 is amended to read:~~  
 29           ~~35A-7-107. Use and access to the registry records.~~  
 30           ~~(1) (a) The records of the registry shall be maintained as private records under Section~~  
 31           ~~63G-2-202.~~  
 32           ~~(b) In addition to those persons granted access to private records under Sections~~  
 33           ~~63G-2-202 and 63G-2-206, state or federal agencies may access data from the registry for the~~  
 34           ~~following purposes:~~  
 35           ~~(i) the Office of Recovery Services for use related to locating, establishing, and~~  
 36           ~~enforcing child, medical, and spousal support obligations and other services;~~  
 37           ~~(ii) state agencies [which] that use financial information in determining eligibility for~~  
 38           ~~public assistance programs; and~~  
 39           ~~(iii) federal agencies responsible for periodic matches of new hire registry information~~  
 40           ~~with federal data bases.~~  
 41           ~~(2) Information that is received under this chapter shall be kept by the department for at~~  
 42           ~~least six months.~~  
 43           ~~(3) (a) As used in this Subsection (3), "personal identifying information" has the same~~  
 44           ~~meaning as defined in Section 76-6-1102.~~  
 45           ~~(b) Notwithstanding Section 35A-4-312 and the other provisions of this section, if the~~  
 46           ~~registry records disclose a suspected misuse of personal identifying information by an~~  
 47           ~~individual other than the purported owner of the information, the department may:~~  
 48           ~~(i) inform an employer of the suspected misuse; and~~  
 49           ~~(ii) provide information of the suspected misuse to an appropriate law enforcement~~  
 50           ~~agency responsible for investigating an identity fraud violation.] ←**§**~~

51           Section **§→** [2] **1 ←§** . Section 76-6-1102 is amended to read:

52           **76-6-1102. Identity fraud crime.**

53           (1) As used in this part, "personal identifying information" may include:

54           (a) name;

55           (b) birth date;

56           (c) address;

57           (d) telephone number;

58           (e) [~~drivers~~] driver license number;

- 59 (f) Social Security number;  
 60 (g) place of employment;  
 61 (h) employee identification numbers or other personal identification numbers;  
 62 (i) mother's maiden name;  
 63 (j) electronic identification numbers;  
 64 (k) electronic signatures under Title 46, Chapter 4, Uniform Electronic Transactions

65 Act; or

- 66 (l) any other numbers or information that can be used to access a person's financial  
 67 resources or medical information, except for numbers or information that can be prosecuted as  
 68 financial transaction card offenses under Sections 76-6-506 through ~~[76-6-506.4]~~ 76-6-506.7.

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

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

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

75 (b) (i) A person is guilty of identity fraud as a party to a violation of this section when  
 76 that person:

77 (A) has knowledge that an individual is using personal identifying information of  
 78 another in violation of this section; and

79 (B) ~~§~~→ willfully and ←~~§~~ intentionally provides or attempts to provide credit, goods,  
 79a services, employment,  
 80 any other thing of value, or medical information to that individual.

81 (ii) A person is not guilty under this Subsection (2)(b) if a person provides goods or  
 82 services that are medically necessary.

83 ~~[(b)]~~ (c) It is not a defense to a violation of Subsection (2)(a) or (b) that the person did  
 84 not know that the personal information belonged to another person.

85 (3) Identity fraud is:

86 (a) except as provided in Subsection (3)(b)(ii), a third degree felony if the value of the  
 87 credit, goods, services, employment, or any other thing of value is less than \$5,000; or

88 (b) a second degree felony if:

89 (i) the value of the credit, goods, services, employment, or any other thing of value is

90 or exceeds \$5,000; or

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

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

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

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

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

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

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

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

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

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**Legislative Review Note**  
**as of 2-26-10 11:16 AM**

**Office of Legislative Research and General Counsel**

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**S.B. 279 - Identity Fraud and Related Amendments**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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