

1 AMENDMENT TO SENATE BILL 242

2 AMENDMENT NO. _____. Amend Senate Bill 242 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by
5 changing the heading of Article 16G and Sections 16G-1,
6 16G-5, 16G-10, 16G-15, 16G-20, 16G-21, and 16G-25 as follows:

7 (720 ILCS 5/Article 16G heading)

8 ARTICLE 16G ~~FINANCIAL~~ IDENTITY THEFT
9 AND-ASSET-FORFEITURE LAW

10 (720 ILCS 5/16G-1)

11 Sec. 16G-1. Short title. This Article may be cited as
12 the ~~Financial~~ Identity Theft and-Asset-Forfeiture Law.

13 (Source: P.A. 91-517, eff. 8-13-99.)

14 (720 ILCS 5/16G-5)

15 Sec. 16G-5. Legislative declaration.

16 (a) It is the public policy of this State that the
17 substantial burden placed upon the economy of this State as a
18 result of the rising incidence of ~~financial~~ identity theft
19 and the negative effect of this crime on the People of this
20 State and its victims is a matter of grave concern to the

1 People of this State who have the right to be protected in
 2 their health, safety, and welfare from the effects of this
 3 crime, and therefore ~~financial~~ identity theft shall be
 4 identified and dealt with swiftly and appropriately
 5 considering the onerous nature of the crime.

6 (b) The widespread availability and unauthorized access
 7 to personal identification information have led and will lead
 8 to a substantial increase in identity theft related crimes.

9 (Source: P.A. 91-517, eff. 8-13-99.)

10 (720 ILCS 5/16G-10)

11 Sec. 16G-10. Definitions. In this Article unless the
 12 context otherwise requires:

13 (a) "Personal identification document" means a birth
 14 certificate, a drivers license, a State identification card,
 15 a public, government, or private employment identification
 16 card, a social security card, a firearm owner's
 17 identification card, a credit card, a debit card, or a
 18 passport issued to or on behalf of a person other than the
 19 offender, or any document made or issued, or falsely
 20 purported to have been made or issued, by or under the
 21 authority of the United States Government, the State of
 22 Illinois, or any other State political subdivision of any
 23 state, or any other governmental or quasi-governmental
 24 organization that is of a type intended for the purpose of
 25 identification of an individual, or any such document made or
 26 altered in a manner that it falsely purports to have been
 27 made on behalf of or issued to another person or by the
 28 authority of one who did not give that authority.

29 (b) "Personal identifying information" means any of the
 30 following information:

- 31 (1) A person's name;
- 32 (2) A person's address;
- 33 (2.5) A person's date of birth;

1 (3) A person's telephone number;

2 (4) A person's drivers license number or State of
3 Illinois identification card as assigned by the Secretary
4 of State of the State of Illinois or a similar agency of
5 another state;

6 (5) A person's Social Security number;

7 (6) A person's public, private, or government
8 employer, place of employment, or employment
9 identification number;

10 (7) The maiden name of a person's mother;

11 (8) The number assigned to a person's depository
12 account, savings account, or brokerage account;

13 (9) The number assigned to a person's credit or
14 debit card, commonly known as a "Visa Card", "Master
15 Card", "American Express Card", "Discover Card", or other
16 similar cards whether issued by a financial institution,
17 corporation, or business entity;

18 (10) Personal identification numbers;

19 (11) Electronic identification numbers;

20 (12) Digital signals;

21 (13) Any other numbers or information which can be
22 used to access a person's financial resources, or to
23 identify a specific individual.

24 (c) "Document-making implement" means any implement,
25 impression, template, computer file, computer disc,
26 electronic device, computer hardware, computer software,
27 instrument, or device that is used to make a real or
28 fictitious or fraudulent personal identification document.

29 (Source: P.A. 91-517, eff. 8-13-99.)

30 (720 ILCS 5/16G-15)

31 Sec. 16G-15. Financial identity theft.

32 (a) A person commits the offense of financial identity
33 theft when he or she knowingly:

1 (1) uses any personal identifying information or
2 personal identification document of another person to
3 fraudulently obtain credit, money, goods, services, or
4 other property, or-

5 (2) uses any personal identification information or
6 personal identification document of another with intent
7 to commit any felony theft or other felony violation of
8 State law not set forth in paragraph (1) of this
9 subsection (a), or

10 (3) obtains, records, possesses, sells, transfers,
11 purchases, or manufactures any personal identification
12 information or personal identification document of
13 another with intent to commit or to aid or abet another
14 in committing any felony theft or other felony violation
15 of State law, or

16 (4) uses, obtains, records, possesses, sells,
17 transfers, purchases, or manufactures any personal
18 identification information or personal identification
19 document of another knowing that such personal
20 identification information or personal identification
21 documents were stolen or produced without lawful
22 authority, or

23 (5) uses, transfers, or possesses document-making
24 implements to produce false identification or false
25 documents with knowledge that they will be used by the
26 person or another to commit any felony theft or other
27 felony violation of State law.

28 (b) Knowledge shall be determined by an evaluation of
29 all circumstances surrounding the use of the other person's
30 identifying information or document.

31 (c) When a charge of ~~financial~~ identity theft of credit,
32 money, goods, services, or other property exceeding a
33 specified value is brought the value of the credit, money,
34 goods, services, or other property is an element of the

1 offense to be resolved by the trier of fact as either
2 exceeding or not exceeding the specified value.

3 (d) Sentence.

4 (1) A person convicted of identity theft in
5 violation of paragraph (1) of subsection (a) shall be
6 sentenced as follows:

7 (A) ~~Financial~~ identity theft of credit, money,
8 goods, services, or other property not exceeding \$300 in
9 value is a Class A misdemeanor. A person who has been
10 previously convicted of ~~financial~~ identity theft of less
11 than \$300 who is convicted of a second or subsequent
12 offense of ~~financial~~ identity theft of less than \$300 is
13 guilty of a Class 4 felony. A person who has been
14 convicted of ~~financial~~ identity theft of less than \$300
15 who has been previously convicted of any type of theft,
16 robbery, armed robbery, burglary, residential burglary,
17 possession of burglary tools, home invasion, home repair
18 fraud, aggravated home repair fraud, or financial
19 exploitation of an elderly or disabled person is guilty
20 of a Class 4 felony. When a person has any such prior
21 conviction, the information or indictment charging that
22 person shall state the prior conviction so as to give
23 notice of the State's intention to treat the charge as a
24 felony. The fact of the prior conviction is not an
25 element of the offense and may not be disclosed to the
26 jury during trial unless otherwise permitted by issues
27 properly raised during the trial.

28 (B) ~~(2)~~--~~Financial~~ Identity theft of credit, money,
29 goods, services, or other property exceeding \$300 and not
30 exceeding \$2,000 in value is a Class 4 felony.

31 (C) ~~(3)~~--~~Financial~~ Identity theft of credit, money,
32 goods, services, or other property exceeding \$2,000 and
33 not exceeding \$10,000 in value is a Class 3 felony.

34 (D) ~~(4)~~--~~Financial~~ Identity theft of credit, money,

1 goods, services, or other property exceeding \$10,000 and
2 not exceeding \$100,000 in value is a Class 2 felony.

3 ~~(E) (5)~~--Financial Identity theft of credit, money,
4 goods, services, or other property exceeding \$100,000 in
5 value is a Class 1 felony.

6 (2) A person convicted of any offense enumerated in
7 paragraphs (2) through (5) of subsection (a) is guilty of
8 a Class 4 felony.

9 (3) A person convicted of any offense enumerated in
10 paragraphs (2) through (5) of subsection (a) a second or
11 subsequent time is guilty of a Class 3 felony.

12 (4) A person who, within a 12 month period, is
13 found in violation of any offense enumerated in
14 paragraphs (2) through (5) of subsection (a) with respect
15 to the identifiers of 3 or more separate individuals, at
16 the same time or consecutively, is guilty of a Class 3
17 felony.

18 (Source: P.A. 91-517, eff. 8-13-99; 92-792, eff. 8-6-02.)

19 (720 ILCS 5/16G-20)

20 Sec. 16G-20. Aggravated ~~financial~~ identity theft.

21 (a) A person commits the offense of aggravated ~~financial~~
22 identity theft when he or she commits the offense of
23 ~~financial~~ identity theft as set forth in subsection (a) of
24 Section 16G-15 against a person 60 years of age or older or a
25 disabled person as defined in Section 16-1.3 of this Code.

26 (b) Knowledge shall be determined by an evaluation of
27 all circumstances surrounding the use of the other person's
28 identifying information or document.

29 (c) When a charge of aggravated ~~financial~~ identity theft
30 of credit, money, goods, services, or other property
31 exceeding a specified value is brought the value of the
32 credit, money, goods, services, or other property is an
33 element of the offense to be resolved by the trier of fact as

1 either exceeding or not exceeding the specified value.

2 (d) A defense to aggravated ~~financial~~ identity theft
3 does not exist merely because the accused reasonably believed
4 the victim to be a person less than 60 years of age.

5 (e) Sentence.

6 (1) Aggravated ~~financial~~ identity theft of credit,
7 money, goods, services, or other property not exceeding
8 \$300 in value is a Class 4 felony.

9 (2) Aggravated ~~financial~~ identity theft of credit,
10 money, goods, services, or other property exceeding \$300
11 and not exceeding \$10,000 in value is a Class 3 felony.

12 (3) Aggravated ~~financial~~ identity theft of credit,
13 money, goods, services, or other property exceeding
14 \$10,000 in value and not exceeding \$100,000 in value is a
15 Class 2 felony.

16 (4) Aggravated ~~financial~~ identity theft of credit,
17 money, goods, services, or other property exceeding
18 \$100,000 in value is a Class 1 felony.

19 (5) A person who has been previously convicted of
20 aggravated ~~financial~~ identity theft regardless of the
21 value of the property involved who is convicted of a
22 second or subsequent offense of aggravated ~~financial~~
23 identity theft regardless of the value of the property
24 involved is guilty of a Class X felony.

25 (Source: P.A. 91-517, eff. 8-13-99.)

26 (720 ILCS 5/16G-21)

27 Sec. 16G-21. Civil remedies. A person who is convicted
28 of ~~financial~~ identity theft or aggravated ~~financial~~ identity
29 theft is liable in a civil action to the person who suffered
30 damages as a result of the violation. The person suffering
31 damages may recover court costs, attorney's fees, lost wages,
32 and actual damages.

33 (Source: P.A. 92-686, eff. 7-16-02.)

1 (720 ILCS 5/16G-25)

2 Sec. 16G-25. Offenders interest in the property. It is no
3 defense to a charge of aggravated ~~financial~~ identity theft or
4 ~~financial~~ identity theft that the offender has an interest in
5 the credit, money, goods, services, or other property
6 ~~obtained-in-the-name-of-the-other-person~~.

7 (Source: P.A. 91-517, eff. 8-13-99.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law."