

# SB0118



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB0118

Introduced 1/30/2009, by Sen. Don Harmon

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/16G-15

Amends the Criminal Code of 1961. Makes a technical change in a Section concerning the offense of financial identity theft.

LRB096 04840 RLC 14906 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing  
5 Section 16G-15 as follows:

6 (720 ILCS 5/16G-15)

7 Sec. 16G-15. Identity theft.

8 (a) A person commits the ~~the~~ offense of identity theft when  
9 he or she knowingly:

10 (1) uses any personal identifying information or  
11 personal identification document of another person to  
12 fraudulently obtain credit, money, goods, services, or  
13 other property, or

14 (2) uses any personal identification information or  
15 personal identification document of another with intent to  
16 commit any felony theft or other felony violation of State  
17 law not set forth in paragraph (1) of this subsection (a),  
18 or

19 (3) obtains, records, possesses, sells, transfers,  
20 purchases, or manufactures any personal identification  
21 information or personal identification document of another  
22 with intent to commit or to aid or abet another in  
23 committing any felony theft or other felony violation of

1 State law, or

2 (4) uses, obtains, records, possesses, sells,  
3 transfers, purchases, or manufactures any personal  
4 identification information or personal identification  
5 document of another knowing that such personal  
6 identification information or personal identification  
7 documents were stolen or produced without lawful  
8 authority, or

9 (5) uses, transfers, or possesses document-making  
10 implements to produce false identification or false  
11 documents with knowledge that they will be used by the  
12 person or another to commit any felony theft or other  
13 felony violation of State law, or

14 (6) uses any personal identification information or  
15 personal identification document of another to portray  
16 himself or herself as that person, or otherwise, for the  
17 purpose of gaining access to any personal identification  
18 information or personal identification document of that  
19 person, without the prior express permission of that  
20 person, or

21 (7) uses any personal identification information or  
22 personal identification document of another for the  
23 purpose of gaining access to any record of the actions  
24 taken, communications made or received, or other  
25 activities or transactions of that person, without the  
26 prior express permission of that person.

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

4 (c) When a charge of identity theft of credit, money,  
5 goods, services, or other property exceeding a specified value  
6 is brought the value of the credit, money, goods, services, or  
7 other property is an element of the offense to be resolved by  
8 the trier of fact as either exceeding or not exceeding the  
9 specified value.

10 (d) Sentence.

11 (1) A person convicted of identity theft in violation  
12 of paragraph (1) of subsection (a) shall be sentenced as  
13 follows:

14 (A) Identity theft of credit, money, goods,  
15 services, or other property not exceeding \$300 in value  
16 is a Class 4 felony. A person who has been previously  
17 convicted of identity theft of less than \$300 who is  
18 convicted of a second or subsequent offense of identity  
19 theft of less than \$300 is guilty of a Class 3 felony.  
20 A person who has been convicted of identity theft of  
21 less than \$300 who has been previously convicted of any  
22 type of theft, robbery, armed robbery, burglary,  
23 residential burglary, possession of burglary tools,  
24 home invasion, home repair fraud, aggravated home  
25 repair fraud, or financial exploitation of an elderly  
26 or disabled person is guilty of a Class 3 felony.

1 Identity theft of credit, money, goods, services, or  
2 other property not exceeding \$300 in value when the  
3 victim of the identity theft is an active duty member  
4 of the Armed Services or Reserve Forces of the United  
5 States or of the Illinois National Guard serving in a  
6 foreign country is a Class 3 felony. A person who has  
7 been previously convicted of identity theft of less  
8 than \$300 who is convicted of a second or subsequent  
9 offense of identity theft of less than \$300 when the  
10 victim of the identity theft is an active duty member  
11 of the Armed Services or Reserve Forces of the United  
12 States or of the Illinois National Guard serving in a  
13 foreign country is guilty of a Class 2 felony. A person  
14 who has been convicted of identity theft of less than  
15 \$300 when the victim of the identity theft is an active  
16 duty member of the Armed Services or Reserve Forces of  
17 the United States or of the Illinois National Guard  
18 serving in a foreign country who has been previously  
19 convicted of any type of theft, robbery, armed robbery,  
20 burglary, residential burglary, possession of burglary  
21 tools, home invasion, home repair fraud, aggravated  
22 home repair fraud, or financial exploitation of an  
23 elderly or disabled person is guilty of a Class 2  
24 felony. When a person has any such prior conviction,  
25 the information or indictment charging that person  
26 shall state the prior conviction so as to give notice

1 of the State's intention to treat the charge as a Class  
2 3 felony. The fact of the prior conviction is not an  
3 element of the offense and may not be disclosed to the  
4 jury during trial unless otherwise permitted by issues  
5 properly raised during the trial.

6 (B) Identity theft of credit, money, goods,  
7 services, or other property exceeding \$300 and not  
8 exceeding \$2,000 in value is a Class 3 felony. Identity  
9 theft of credit, money, goods, services, or other  
10 property exceeding \$300 and not exceeding \$2,000 in  
11 value when the victim of the identity theft is an  
12 active duty member of the Armed Services or Reserve  
13 Forces of the United States or of the Illinois National  
14 Guard serving in a foreign country is a Class 2 felony.

15 (C) Identity theft of credit, money, goods,  
16 services, or other property exceeding \$2,000 and not  
17 exceeding \$10,000 in value is a Class 2 felony.  
18 Identity theft of credit, money, goods, services, or  
19 other property exceeding \$2,000 and not exceeding  
20 \$10,000 in value when the victim of the identity theft  
21 is an active duty member of the Armed Services or  
22 Reserve Forces of the United States or of the Illinois  
23 National Guard serving in a foreign country is a Class  
24 1 felony.

25 (D) Identity theft of credit, money, goods,  
26 services, or other property exceeding \$10,000 and not

1 exceeding \$100,000 in value is a Class 1 felony.  
2 Identity theft of credit, money, goods, services, or  
3 other property exceeding \$10,000 and not exceeding  
4 \$100,000 in value when the victim of the identity theft  
5 is an active duty member of the Armed Services or  
6 Reserve Forces of the United States or of the Illinois  
7 National Guard serving in a foreign country is a Class  
8 X felony.

9 (E) Identity theft of credit, money, goods,  
10 services, or other property exceeding \$100,000 in  
11 value is a Class X felony.

12 (2) A person convicted of any offense enumerated in  
13 paragraphs (2) through (7) of subsection (a) is guilty of a  
14 Class 3 felony. A person convicted of any offense  
15 enumerated in paragraphs (2) through (7) of subsection (a)  
16 when the victim of the identity theft is an active duty  
17 member of the Armed Services or Reserve Forces of the  
18 United States or of the Illinois National Guard serving in  
19 a foreign country is guilty of a Class 2 felony.

20 (3) A person convicted of any offense enumerated in  
21 paragraphs (2) through (5) of subsection (a) a second or  
22 subsequent time is guilty of a Class 2 felony. A person  
23 convicted of any offense enumerated in paragraphs (2)  
24 through (5) of subsection (a) a second or subsequent time  
25 when the victim of the identity theft is an active duty  
26 member of the Armed Services or Reserve Forces of the

1 United States or of the Illinois National Guard serving in  
2 a foreign country is guilty of a Class 1 felony.

3 (4) A person who, within a 12 month period, is found in  
4 violation of any offense enumerated in paragraphs (2)  
5 through (7) of subsection (a) with respect to the  
6 identifiers of, or other information relating to, 3 or more  
7 separate individuals, at the same time or consecutively, is  
8 guilty of a Class 2 felony. A person who, within a 12 month  
9 period, is found in violation of any offense enumerated in  
10 paragraphs (2) through (7) of subsection (a) with respect  
11 to the identifiers of, or other information relating to, 3  
12 or more separate individuals, at the same time or  
13 consecutively, when the victim of the identity theft is an  
14 active duty member of the Armed Services or Reserve Forces  
15 of the United States or of the Illinois National Guard  
16 serving in a foreign country is guilty of a Class 1 felony.

17 (5) A person convicted of identity theft in violation  
18 of paragraph (2) of subsection (a) who uses any personal  
19 identification information or personal identification  
20 document of another to purchase methamphetamine  
21 manufacturing material as defined in Section 10 of the  
22 Methamphetamine Control and Community Protection Act with  
23 the intent to unlawfully manufacture methamphetamine is  
24 guilty of a Class 2 felony for a first offense and a Class  
25 1 felony for a second or subsequent offense. A person  
26 convicted of identity theft in violation of paragraph (2)



1 of subsection (a) who uses any personal identification  
2 information or personal identification document of another  
3 to purchase methamphetamine manufacturing material as  
4 defined in Section 10 of the Methamphetamine Control and  
5 Community Protection Act with the intent to unlawfully  
6 manufacture methamphetamine when the victim of the  
7 identity theft is an active duty member of the Armed  
8 Services or Reserve Forces of the United States or of the  
9 Illinois National Guard serving in a foreign country is  
10 guilty of a Class 1 felony for a first offense and a Class  
11 X felony for a second or subsequent offense.

12 (Source: P.A. 94-39, eff. 6-16-05; 94-827, eff. 1-1-07;  
13 94-1008, eff. 7-5-06; 95-60, eff. 1-1-08; 95-331, eff.  
14 8-21-07.)