

HB1656



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB1656

by Rep. Margo McDermed

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-0.1

Amends the Criminal Code of 2012. Defines "personal identifying information" for purposes of identity theft to include (1) any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional and (2) a person's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify a person, or any information in an individual's application and claims history, including, but not limited to, appeals history.

LRB101 08581 SLF 53660 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 2012 is amended by changing
5 Section 16-0.1 as follows:

6 (720 ILCS 5/16-0.1)

7 Sec. 16-0.1. Definitions. In this Article, unless the
8 context clearly requires otherwise, the following terms are
9 defined as indicated:

10 "Access" means to use, instruct, communicate with, store
11 data in, retrieve or intercept data from, or otherwise utilize
12 any services of a computer.

13 "Coin-operated machine" includes any automatic vending
14 machine or any part thereof, parking meter, coin telephone,
15 coin-operated transit turnstile, transit fare box, coin
16 laundry machine, coin dry cleaning machine, amusement machine,
17 music machine, vending machine dispensing goods or services, or
18 money changer.

19 "Communication device" means any type of instrument,
20 device, machine, or equipment which is capable of transmitting,
21 acquiring, decrypting, or receiving any telephonic,
22 electronic, data, Internet access, audio, video, microwave, or
23 radio transmissions, signals, communications, or services,

1 including the receipt, acquisition, transmission, or
2 decryption of all such communications, transmissions, signals,
3 or services provided by or through any cable television, fiber
4 optic, telephone, satellite, microwave, radio, Internet-based,
5 data transmission, or wireless distribution network, system or
6 facility; or any part, accessory, or component thereof,
7 including any computer circuit, security module, smart card,
8 software, computer chip, electronic mechanism or other
9 component, accessory or part of any communication device which
10 is capable of facilitating the transmission, decryption,
11 acquisition or reception of all such communications,
12 transmissions, signals, or services.

13 "Communication service" means any service lawfully
14 provided for a charge or compensation to facilitate the lawful
15 origination, transmission, emission, or reception of signs,
16 signals, data, writings, images, and sounds or intelligence of
17 any nature by telephone, including cellular telephones or a
18 wire, wireless, radio, electromagnetic, photo-electronic or
19 photo-optical system; and also any service lawfully provided by
20 any radio, telephone, cable television, fiber optic,
21 satellite, microwave, Internet-based or wireless distribution
22 network, system, facility or technology, including, but not
23 limited to, any and all electronic, data, video, audio,
24 Internet access, telephonic, microwave and radio
25 communications, transmissions, signals and services, and any
26 such communications, transmissions, signals and services

1 lawfully provided directly or indirectly by or through any of
2 those networks, systems, facilities or technologies.

3 "Communication service provider" means: (1) any person or
4 entity providing any communication service, whether directly
5 or indirectly, as a reseller, including, but not limited to, a
6 cellular, paging or other wireless communications company or
7 other person or entity which, for a fee, supplies the facility,
8 cell site, mobile telephone switching office or other equipment
9 or communication service; (2) any person or entity owning or
10 operating any cable television, fiber optic, satellite,
11 telephone, wireless, microwave, radio, data transmission or
12 Internet-based distribution network, system or facility; and
13 (3) any person or entity providing any communication service
14 directly or indirectly by or through any such distribution
15 system, network or facility.

16 "Computer" means a device that accepts, processes, stores,
17 retrieves or outputs data, and includes but is not limited to
18 auxiliary storage and telecommunications devices connected to
19 computers.

20 "Continuing course of conduct" means a series of acts, and
21 the accompanying mental state necessary for the crime in
22 question, irrespective of whether the series of acts are
23 continuous or intermittent.

24 "Delivery container" means any bakery basket of wire or
25 plastic used to transport or store bread or bakery products,
26 any dairy case of wire or plastic used to transport or store

1 dairy products, and any dolly or cart of 2 or 4 wheels used to
2 transport or store any bakery or dairy product.

3 "Document-making implement" means any implement,
4 impression, template, computer file, computer disc, electronic
5 device, computer hardware, computer software, instrument, or
6 device that is used to make a real or fictitious or fraudulent
7 personal identification document.

8 "Financial transaction device" means any of the following:

9 (1) An electronic funds transfer card.

10 (2) A credit card.

11 (3) A debit card.

12 (4) A point-of-sale card.

13 (5) Any instrument, device, card, plate, code, account
14 number, personal identification number, or a record or copy
15 of a code, account number, or personal identification
16 number or other means of access to a credit account or
17 deposit account, or a driver's license or State
18 identification card used to access a proprietary account,
19 other than access originated solely by a paper instrument,
20 that can be used alone or in conjunction with another
21 access device, for any of the following purposes:

22 (A) Obtaining money, cash refund or credit
23 account, credit, goods, services, or any other thing of
24 value.

25 (B) Certifying or guaranteeing to a person or
26 business the availability to the device holder of funds

1 on deposit to honor a draft or check payable to the
2 order of that person or business.

3 (C) Providing the device holder access to a deposit
4 account for the purpose of making deposits,
5 withdrawing funds, transferring funds between deposit
6 accounts, obtaining information pertaining to a
7 deposit account, or making an electronic funds
8 transfer.

9 "Full retail value" means the merchant's stated or
10 advertised price of the merchandise. "Full retail value"
11 includes the aggregate value of property obtained from retail
12 thefts committed by the same person as part of a continuing
13 course of conduct from one or more mercantile establishments in
14 a single transaction or in separate transactions over a period
15 of one year.

16 "Internet" means an interactive computer service or system
17 or an information service, system, or access software provider
18 that provides or enables computer access by multiple users to a
19 computer server, and includes, but is not limited to, an
20 information service, system, or access software provider that
21 provides access to a network system commonly known as the
22 Internet, or any comparable system or service and also
23 includes, but is not limited to, a World Wide Web page,
24 newsgroup, message board, mailing list, or chat area on any
25 interactive computer service or system or other online service.

26 "Library card" means a card or plate issued by a library

1 facility for purposes of identifying the person to whom the
2 library card was issued as authorized to borrow library
3 material, subject to all limitations and conditions imposed on
4 the borrowing by the library facility issuing such card.

5 "Library facility" includes any public library or museum,
6 or any library or museum of an educational, historical or
7 eleemosynary institution, organization or society.

8 "Library material" includes any book, plate, picture,
9 photograph, engraving, painting, sculpture, statue, artifact,
10 drawing, map, newspaper, pamphlet, broadside, magazine,
11 manuscript, document, letter, microfilm, sound recording,
12 audiovisual material, magnetic or other tape, electronic data
13 processing record or other documentary, written or printed
14 material regardless of physical form or characteristics, or any
15 part thereof, belonging to, or on loan to or otherwise in the
16 custody of a library facility.

17 "Manufacture or assembly of an unlawful access device"
18 means to make, produce or assemble an unlawful access device or
19 to modify, alter, program or re-program any instrument, device,
20 machine, equipment or software so that it is capable of
21 defeating or circumventing any technology, device or software
22 used by the provider, owner or licensee of a communication
23 service or of any data, audio or video programs or
24 transmissions to protect any such communication, data, audio or
25 video services, programs or transmissions from unauthorized
26 access, acquisition, disclosure, receipt, decryption,

1 communication, transmission or re-transmission.

2 "Manufacture or assembly of an unlawful communication
3 device" means to make, produce or assemble an unlawful
4 communication or wireless device or to modify, alter, program
5 or reprogram a communication or wireless device to be capable
6 of acquiring, disrupting, receiving, transmitting, decrypting,
7 or facilitating the acquisition, disruption, receipt,
8 transmission or decryption of, a communication service without
9 the express consent or express authorization of the
10 communication service provider, or to knowingly assist others
11 in those activities.

12 "Master sound recording" means the original physical
13 object on which a given set of sounds were first recorded and
14 which the original object from which all subsequent sound
15 recordings embodying the same set of sounds are directly or
16 indirectly derived.

17 "Merchandise" means any item of tangible personal
18 property, including motor fuel.

19 "Merchant" means an owner or operator of any retail
20 mercantile establishment or any agent, employee, lessee,
21 consignee, officer, director, franchisee, or independent
22 contractor of the owner or operator. "Merchant" also means a
23 person who receives from an authorized user of a payment card,
24 or someone the person believes to be an authorized user, a
25 payment card or information from a payment card, or what the
26 person believes to be a payment card or information from a

1 payment card, as the instrument for obtaining, purchasing or
2 receiving goods, services, money, or anything else of value
3 from the person.

4 "Motor fuel" means a liquid, regardless of its properties,
5 used to propel a vehicle, including gasoline and diesel.

6 "Online" means the use of any electronic or wireless device
7 to access the Internet.

8 "Payment card" means a credit card, charge card, debit
9 card, or any other card that is issued to an authorized card
10 user and that allows the user to obtain, purchase, or receive
11 goods, services, money, or anything else of value from a
12 merchant.

13 "Person with a disability" means a person who suffers from
14 a physical or mental impairment resulting from disease, injury,
15 functional disorder or congenital condition that impairs the
16 individual's mental or physical ability to independently
17 manage his or her property or financial resources, or both.

18 "Personal identification document" means a birth
19 certificate, a driver's license, a State identification card, a
20 public, government, or private employment identification card,
21 a social security card, a firearm owner's identification card,
22 a credit card, a debit card, or a passport issued to or on
23 behalf of a person other than the offender, or any document
24 made or issued, or falsely purported to have been made or
25 issued, by or under the authority of the United States
26 Government, the State of Illinois, or any other state political

1 subdivision of any state, or any other governmental or
2 quasi-governmental organization that is of a type intended for
3 the purpose of identification of an individual, or any such
4 document made or altered in a manner that it falsely purports
5 to have been made on behalf of or issued to another person or
6 by the authority of one who did not give that authority.

7 "Personal identifying information" means any of the
8 following information:

9 (1) A person's name.

10 (2) A person's address.

11 (3) A person's date of birth.

12 (4) A person's telephone number.

13 (5) A person's driver's license number or State of
14 Illinois identification card as assigned by the Secretary
15 of State of the State of Illinois or a similar agency of
16 another state.

17 (6) A person's social security number.

18 (7) A person's public, private, or government
19 employer, place of employment, or employment
20 identification number.

21 (8) The maiden name of a person's mother.

22 (9) The number assigned to a person's depository
23 account, savings account, or brokerage account.

24 (10) The number assigned to a person's credit or debit
25 card, commonly known as a "Visa Card", "MasterCard",
26 "American Express Card", "Discover Card", or other similar

1 cards whether issued by a financial institution,
2 corporation, or business entity.

3 (11) Personal identification numbers.

4 (12) Electronic identification numbers.

5 (13) Digital signals.

6 (14) User names, passwords, and any other word, number,
7 character or combination of the same usable in whole or
8 part to access information relating to a specific
9 individual, or to the actions taken, communications made or
10 received, or other activities or transactions of a specific
11 individual.

12 (15) Any other numbers or information which can be used
13 to access a person's financial resources, or to identify a
14 specific individual, or the actions taken, communications
15 made or received, or other activities or transactions of a
16 specific individual.

17 (16) Any information regarding an individual's medical
18 history, mental or physical condition, or medical
19 treatment or diagnosis by a health care professional.

20 (17) A person's health insurance policy number or
21 subscriber identification number, any unique identifier
22 used by a health insurer to identify a person, or any
23 information in an individual's application and claims
24 history, including, but not limited to, appeals history.

25 "Premises of a retail mercantile establishment" includes,
26 but is not limited to, the retail mercantile establishment; any

1 common use areas in shopping centers; and all parking areas set
2 aside by a merchant or on behalf of a merchant for the parking
3 of vehicles for the convenience of the patrons of such retail
4 mercantile establishment.

5 "Public water, gas, or power supply, or other public
6 services" mean any service subject to regulation by the
7 Illinois Commerce Commission; any service furnished by a public
8 utility that is owned and operated by any political
9 subdivision, public institution of higher education or
10 municipal corporation of this State; any service furnished by
11 any public utility that is owned by such political subdivision,
12 public institution of higher education, or municipal
13 corporation and operated by any of its lessees or operating
14 agents; any service furnished by an electric cooperative as
15 defined in Section 3.4 of the Electric Supplier Act; or
16 wireless service or other service regulated by the Federal
17 Communications Commission.

18 "Publish" means to communicate or disseminate information
19 to any one or more persons, either orally, in person, or by
20 telephone, radio or television or in writing of any kind,
21 including, without limitation, a letter or memorandum,
22 circular or handbill, newspaper or magazine article or book.

23 "Radio frequency identification device" means any
24 implement, computer file, computer disc, electronic device,
25 computer hardware, computer software, or instrument that is
26 used to activate, read, receive, or decode information stored

1 on a RFID tag or transponder attached to a personal
2 identification document.

3 "RFID tag or transponder" means a chip or device that
4 contains personal identifying information from which the
5 personal identifying information can be read or decoded by
6 another device emitting a radio frequency that activates or
7 powers a radio frequency emission response from the chip or
8 transponder.

9 "Reencoder" means an electronic device that places encoded
10 information from the magnetic strip or stripe of a payment card
11 onto the magnetic strip or stripe of a different payment card.

12 "Retail mercantile establishment" means any place where
13 merchandise is displayed, held, stored or offered for sale to
14 the public.

15 "Scanning device" means a scanner, reader, or any other
16 electronic device that is used to access, read, scan, obtain,
17 memorize, or store, temporarily or permanently, information
18 encoded on the magnetic strip or stripe of a payment card.

19 "Shopping cart" means those push carts of the type or types
20 which are commonly provided by grocery stores, drug stores or
21 other retail mercantile establishments for the use of the
22 public in transporting commodities in stores and markets and,
23 incidentally, from the stores to a place outside the store.

24 "Sound or audio visual recording" means any sound or audio
25 visual phonograph record, disc, pre-recorded tape, film, wire,
26 magnetic tape or other object, device or medium, now known or

1 hereafter invented, by which sounds or images may be reproduced
2 with or without the use of any additional machine, equipment or
3 device.

4 "Theft detection device remover" means any tool or device
5 specifically designed and intended to be used to remove any
6 theft detection device from any merchandise.

7 "Under-ring" means to cause the cash register or other
8 sales recording device to reflect less than the full retail
9 value of the merchandise.

10 "Unidentified sound or audio visual recording" means a
11 sound or audio visual recording without the actual name and
12 full and correct street address of the manufacturer, and the
13 name of the actual performers or groups prominently and legibly
14 printed on the outside cover or jacket and on the label of such
15 sound or audio visual recording.

16 "Unlawful access device" means any type of instrument,
17 device, machine, equipment, technology, or software which is
18 primarily possessed, used, designed, assembled, manufactured,
19 sold, distributed or offered, promoted or advertised for the
20 purpose of defeating or circumventing any technology, device or
21 software, or any component or part thereof, used by the
22 provider, owner or licensee of any communication service or of
23 any data, audio or video programs or transmissions to protect
24 any such communication, audio or video services, programs or
25 transmissions from unauthorized access, acquisition, receipt,
26 decryption, disclosure, communication, transmission or

1 re-transmission.

2 "Unlawful communication device" means any electronic
3 serial number, mobile identification number, personal
4 identification number or any communication or wireless device
5 that is capable of acquiring or facilitating the acquisition of
6 a communication service without the express consent or express
7 authorization of the communication service provider, or that
8 has been altered, modified, programmed or reprogrammed, alone
9 or in conjunction with another communication or wireless device
10 or other equipment, to so acquire or facilitate the
11 unauthorized acquisition of a communication service. "Unlawful
12 communication device" also means:

13 (1) any phone altered to obtain service without the
14 express consent or express authorization of the
15 communication service provider, tumbler phone, counterfeit
16 or clone phone, tumbler microchip, counterfeit or clone
17 microchip, scanning receiver of wireless communication
18 service or other instrument capable of disguising its
19 identity or location or of gaining unauthorized access to a
20 communications or wireless system operated by a
21 communication service provider; and

22 (2) any communication or wireless device which is
23 capable of, or has been altered, designed, modified,
24 programmed or reprogrammed, alone or in conjunction with
25 another communication or wireless device or devices, so as
26 to be capable of, facilitating the disruption,

1 acquisition, receipt, transmission or decryption of a
2 communication service without the express consent or
3 express authorization of the communication service
4 provider, including, but not limited to, any device,
5 technology, product, service, equipment, computer software
6 or component or part thereof, primarily distributed, sold,
7 designed, assembled, manufactured, modified, programmed,
8 reprogrammed or used for the purpose of providing the
9 unauthorized receipt of, transmission of, disruption of,
10 decryption of, access to or acquisition of any
11 communication service provided by any communication
12 service provider.

13 "Vehicle" means a motor vehicle, motorcycle, or farm
14 implement that is self-propelled and that uses motor fuel for
15 propulsion.

16 "Wireless device" includes any type of instrument, device,
17 machine, or equipment that is capable of transmitting or
18 receiving telephonic, electronic or radio communications, or
19 any part of such instrument, device, machine, or equipment, or
20 any computer circuit, computer chip, electronic mechanism, or
21 other component that is capable of facilitating the
22 transmission or reception of telephonic, electronic, or radio
23 communications.

24 (Source: P.A. 97-597, eff. 1-1-12; incorporates 97-388, eff.
25 1-1-12; 97-1109, eff. 1-1-13.)