



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB4438

Introduced 1/9/2006, by Rep. Harry R. Ramey, Jr.

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/16G-13 new

720 ILCS 5/16G-21

720 ILCS 5/33-3

from Ch. 38, par. 33-3

Amends the Criminal Code of 1961. Creates the offense of facilitating identity theft. Provides that a person commits the offense when he or she is an employee of the State of Illinois who in the course of his or her official duties has access to personal identifying information of another person, whether written, recorded, or on computer disk and disposes of that written, recorded, or computerized information in any receptacle, trash can, or other container that the public could gain access to without shredding that information, destroying the recording, or wiping the computer disk so that the information is either unintelligible or destroyed. Provides for civil remedies. Provides that such violation is official misconduct. Provides that a violation is a Class 3 felony.

LRB094 18374 RLC 53685 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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 Sections 16G-21 and 33-3 and by adding Section 16G-13 as  
6 follows:

7 (720 ILCS 5/16G-13 new)

8 Sec. 16G-13. Facilitating identity theft.

9 (a) A person commits the offense of facilitating identity  
10 theft when he or she is an employee of the State of Illinois  
11 who in the course of his or her official duties has access to  
12 personal identifying information of another person, whether  
13 written, recorded, or on computer disk and disposes of that  
14 written, recorded, or computerized information in any  
15 receptacle, trash can, or other container that the public could  
16 gain access to without shredding that information, destroying  
17 the recording, or wiping the computer disk so that the  
18 information is either unintelligible or destroyed.

19 (b) Sentence. Facilitating identity theft is a Class 3  
20 felony.

21 (720 ILCS 5/16G-21)

22 Sec. 16G-21. Civil remedies. A person who is convicted of  
23 facilitating identity theft, identity theft, or aggravated  
24 identity theft is liable in a civil action to the person who  
25 suffered damages as a result of the violation. The person  
26 suffering damages may recover court costs, attorney's fees,  
27 lost wages, and actual damages.

28 (Source: P.A. 92-686, eff. 7-16-02; 93-401, eff. 7-31-03.)

29 (720 ILCS 5/33-3) (from Ch. 38, par. 33-3)

30 Sec. 33-3. Official misconduct ~~Misconduct~~.) A public

1 officer or employee or special government agent commits  
2 misconduct when, in his or her official capacity or capacity as  
3 a special government agent, he or she commits any of the  
4 following acts:

5 (a) Intentionally or recklessly fails to perform any  
6 mandatory duty as required by law; or

7 (b) Knowingly performs an act which he or she knows he  
8 or she is forbidden by law to perform; or

9 (c) With intent to obtain a personal advantage for  
10 himself, herself, or another, he or she performs an act in  
11 excess of his or her lawful authority; or

12 (d) Solicits or knowingly accepts for the performance  
13 of any act a fee or reward which he or she knows is not  
14 authorized by law; or -

15 (e) Being an employee of the State of Illinois, he or  
16 she violates Section 16G-13 of this Code.

17 A public officer or employee or special government agent  
18 convicted of violating any provision of this Section forfeits  
19 his or her office or employment or position as a special  
20 government agent. In addition, he or she commits a Class 3  
21 felony.

22 For purposes of this Section, "special government agent"  
23 has the meaning ascribed to it in subsection (1) of Section  
24 4A-101 of the Illinois Governmental Ethics Act.

25 (Source: P.A. 94-338, eff. 1-1-06.)