HB1236 Enrolled

1 AN ACT concerning criminal law.

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

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

6 (720 ILCS 5/16G-15)

7 Sec. 16G-15. Identity theft.

8 (a) A person commits the offense of identity theft when he9 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

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

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1 State law, or

2 (4) uses, obtains, records, possesses, sells, 3 transfers, purchases, or manufactures any personal identification information or personal identification 4 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

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

(7) uses any personal identification information or personal identification document of another for the purpose of gaining access to any record of the actions taken, communications made or received, or other activities or transactions of that person, without the prior express permission of that person. HB1236 Enrolled - 3 - LRB095 04639 RLC 24697 b

(b) Knowledge shall be determined by an evaluation of all
 circumstances surrounding the use of the other person's
 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.

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

Identity identity theft of credit, money, 14 (A) 15 goods, services, or other property not exceeding \$300 in value is a Class 4 felony. A person who has been 16 17 previously convicted of identity theft of less than \$300 who is convicted of a second or subsequent offense 18 of identity theft of less than \$300 is guilty of a 19 20 Class 3 felony. A person who has been convicted of identity theft of less than \$300 who has been 21 22 previously convicted of any type of theft, robbery, 23 burglary, residential burglary, armed robbery, 24 possession of burglary tools, home invasion, home 25 repair fraud, aggravated home repair fraud, or 26 financial exploitation of an elderly or disabled HB1236 Enrolled - 4 - LRB095 04639 RLC 24697 b

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

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1 conviction so as to give notice of the State's 2 intention to treat the charge as a Class 3 felony. The 3 fact of the prior conviction is not an element of the 4 offense and may not be disclosed to the jury during 5 trial unless otherwise permitted by issues properly 6 raised during the trial.

7 Identity theft of credit, money, goods, (B) services, or other property exceeding \$300 and not 8 9 exceeding \$2,000 in value is a Class 3 felony. Identity 10 theft of credit, money, goods, services, or other 11 property exceeding \$300 and not exceeding \$2,000 in 12 value when the victim of the identity theft is an 13 active duty member of the Armed Services or Reserve 14 Forces of the United States or of the Illinois National Guard serving in a foreign country is a Class 2 felony. 15

16 (C) Identity theft of credit, money, goods, 17 services, or other property exceeding \$2,000 and not exceeding \$10,000 in value is a Class 2 felony. 18 19 Identity theft of credit, money, goods, services, or 20 other property exceeding \$2,000 and not exceeding 21 \$10,000 in value when the victim of the identity theft 22 is an active duty member of the Armed Services or 23 Reserve Forces of the United States or of the Illinois 24 National Guard serving in a foreign country is a Class 25 1 felony.

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(D) Identity theft of credit, money, goods,

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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 5 \$100,000 in value when the victim of the identity theft is an active duty member of the Armed Services or 6 7 Reserve Forces of the United States or of the Illinois National Guard serving in a foreign country is a Class 8 9 X felony.

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

(2) A person convicted of any offense enumerated in 13 14 paragraphs (2) through (7) of subsection (a) is guilty of a Class 3 felony. A person convicted of any offense 15 16 enumerated in paragraphs (2) through (7) of subsection (a) 17 when the victim of the identity theft is an active duty member of the Armed Services or Reserve Forces of the 18 19 United States or of the Illinois National Guard serving in 20 a foreign country is guilty of a Class 2 felony.

(3) A person convicted of any offense enumerated in
paragraphs (2) through (5) of subsection (a) a second or
subsequent time is guilty of a Class 2 felony. <u>A person</u>
<u>convicted of any offense enumerated in paragraphs (2)</u>
<u>through (5) of subsection (a) a second or subsequent time</u>
<u>when the victim of the identity theft is an active duty</u>

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member of the Armed Services or Reserve Forces of the
 United States or of the Illinois National Guard serving in
 a foreign country is guilty of a Class 1 felony.

(4) A person who, within a 12 month period, is found in 4 5 violation of any offense enumerated in paragraphs (2) through (7) of subsection (a) with respect to 6 the 7 identifiers of, or other information relating to, 3 or more 8 separate individuals, at the same time or consecutively, is 9 guilty of a Class 2 felony. A person who, within a 12 month 10 period, is found in violation of any offense enumerated in 11 paragraphs (2) through (7) of subsection (a) with respect 12 to the identifiers of, or other information relating to, 3 13 or more separate individuals, at the same time or 14 consecutively, when the victim of the identity theft is an 15 active duty member of the Armed Services or Reserve Forces 16 of the United States or of the Illinois National Guard 17 serving in a foreign country is guilty of a Class 1 felony.

(5) A person convicted of identity theft in violation 18 19 of paragraph (2) of subsection (a) who uses any personal identification information or personal identification 20 21 document of another to purchase methamphetamine 22 manufacturing material as defined in Section 10 of the 23 Methamphetamine Control and Community Protection Act with 24 the intent to unlawfully manufacture methamphetamine is 25 guilty of a Class 2 felony for a first offense and a Class 26 1 felony for a second or subsequent offense. A person HB1236 Enrolled - 8 - LRB095 04639 RLC 24697 b

1	convicted of identity theft in violation of paragraph (2)
2	of subsection (a) who uses any personal identification
3	information or personal identification document of another
4	to purchase methamphetamine manufacturing material as
5	defined in Section 10 of the Methamphetamine Control and
6	Community Protection Act with the intent to unlawfully
7	manufacture methamphetamine when the victim of the
8	identity theft is an active duty member of the Armed
9	Services or Reserve Forces of the United States or of the
10	Illinois National Guard serving in a foreign country is
11	guilty of a Class 1 felony for a first offense and a Class
12	X felony for a second or subsequent offense.
13	(Source: P.A. 93-401, eff. 7-31-03; 94-39, eff. 6-16-05;
14	94-827, eff. 1-1-07; 94-1008, eff. 7-5-06; revised 8-3-06.)