

SB3185



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3185

Introduced 1/13/2022, by Sen. Donald P. DeWitte

SYNOPSIS AS INTRODUCED:

720 ILCS 5/16-30

Amends the Criminal Code of 2012. Provides that when "another" or "another person" as used in the identity theft and aggravated identity theft statute includes, but is not limited to, an individual, whether living or deceased or real or fictitious. Provides that it also includes any entity, firm, association, organization, partnership, business trust, company, corporation, limited liability company, professional corporation, or other private or public entity.

LRB102 21939 RLC 31062 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
5 changing Section 16-30 as follows:

6 (720 ILCS 5/16-30)

7 Sec. 16-30. Identity theft; aggravated identity theft.

8 (a) A person commits identity theft when he or she
9 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;

14 (2) uses any personal identifying information or
15 personal identification document of another with intent to
16 commit any felony not set forth in paragraph (1) of this
17 subsection (a);

18 (3) obtains, records, possesses, sells, transfers,
19 purchases, or manufactures any personal identifying
20 information or personal identification document of another
21 with intent to commit any felony;

22 (4) uses, obtains, records, possesses, sells,
23 transfers, purchases, or manufactures any personal

1 identifying information or personal identification
2 document of another knowing that such personal identifying
3 information or personal identification documents were
4 stolen or produced without lawful authority;

5 (5) uses, transfers, or possesses document-making
6 implements to produce false identification or false
7 documents with knowledge that they will be used by the
8 person or another to commit any felony;

9 (6) uses any personal identifying information or
10 personal identification document of another to portray
11 himself or herself as that person, or otherwise, for the
12 purpose of gaining access to any personal identifying
13 information or personal identification document of that
14 person, without the prior express permission of that
15 person;

16 (7) uses any personal identifying information or
17 personal identification document of another for the
18 purpose of gaining access to any record of the actions
19 taken, communications made or received, or other
20 activities or transactions of that person, without the
21 prior express permission of that person;

22 (7.5) uses, possesses, or transfers a radio frequency
23 identification device capable of obtaining or processing
24 personal identifying information from a radio frequency
25 identification (RFID) tag or transponder with knowledge
26 that the device will be used by the person or another to

1 commit a felony violation of State law or any violation of
2 this Article; or

3 (8) in the course of applying for a building permit
4 with a unit of local government, provides the license
5 number of a roofing or fire sprinkler contractor whom he
6 or she does not intend to have perform the work on the
7 roofing or fire sprinkler portion of the project; it is an
8 affirmative defense to prosecution under this paragraph
9 (8) that the building permit applicant promptly informed
10 the unit of local government that issued the building
11 permit of any change in the roofing or fire sprinkler
12 contractor.

13 (b) Aggravated identity theft. A person commits aggravated
14 identity theft when he or she commits identity theft as set
15 forth in subsection (a) of this Section:

16 (1) against a person 60 years of age or older or a
17 person with a disability; or

18 (2) in furtherance of the activities of an organized
19 gang.

20 A defense to aggravated identity theft does not exist
21 merely because the accused reasonably believed the victim to
22 be a person less than 60 years of age. For the purposes of this
23 subsection, "organized gang" has the meaning ascribed in
24 Section 10 of the Illinois Streetgang Terrorism Omnibus
25 Prevention Act.

26 (c) Knowledge shall be determined by an evaluation of all

1 circumstances surrounding the use of the other person's
2 identifying information or document.

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

9 (e) Sentence.

10 (1) Identity theft.

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

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

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

1 exploitation of an elderly person or person with a
2 disability is guilty of a Class 2 felony.

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

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

23 (iv) Identity theft of credit, money, goods,
24 services, or other property exceeding \$10,000 and
25 not exceeding \$100,000 in value is a Class 1
26 felony. Identity theft of credit, money, goods,

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

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

10 (B) A person convicted of any offense enumerated
11 in paragraphs (2) through (7.5) of subsection (a) is
12 guilty of a Class 3 felony. A person convicted of any
13 offense enumerated in paragraphs (2) through (7.5) of
14 subsection (a) when the victim of the identity theft
15 is an active duty member of the Armed Services or
16 Reserve Forces of the United States or of the Illinois
17 National Guard serving in a foreign country is guilty
18 of a Class 2 felony.

19 (C) A person convicted of any offense enumerated
20 in paragraphs (2) through (5) and (7.5) of subsection
21 (a) a second or subsequent time is guilty of a Class 2
22 felony. A person convicted of any offense enumerated
23 in paragraphs (2) through (5) and (7.5) of subsection
24 (a) a second or subsequent time when the victim of the
25 identity theft is an active duty member of the Armed
26 Services or Reserve Forces of the United States or of

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

3 (D) A person who, within a 12-month period, is
4 found in violation of any offense enumerated in
5 paragraphs (2) through (7.5) of subsection (a) with
6 respect to the identifiers of, or other information
7 relating to, 3 or more separate individuals, at the
8 same time or consecutively, is guilty of a Class 2
9 felony. A person who, within a 12-month period, is
10 found in violation of any offense enumerated in
11 paragraphs (2) through (7.5) of subsection (a) with
12 respect to the identifiers of, or other information
13 relating to, 3 or more separate individuals, at the
14 same time or consecutively, when the victim of the
15 identity theft is an active duty member of the Armed
16 Services or Reserve Forces of the United States or of
17 the Illinois National Guard serving in a foreign
18 country is guilty of a Class 1 felony.

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

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

16 (F) A person convicted of identity theft in
17 violation of paragraph (8) of subsection (a) of this
18 Section is guilty of a Class 4 felony.

19 (2) Aggravated identity theft.

20 (A) Aggravated identity theft of credit, money,
21 goods, services, or other property not exceeding \$300
22 in value is a Class 3 felony.

23 (B) Aggravated identity theft of credit, money,
24 goods, services, or other property exceeding \$300 and
25 not exceeding \$10,000 in value is a Class 2 felony.

26 (C) Aggravated identity theft of credit, money,

1 goods, services, or other property exceeding \$10,000
2 in value and not exceeding \$100,000 in value is a Class
3 1 felony.

4 (D) Aggravated identity theft of credit, money,
5 goods, services, or other property exceeding \$100,000
6 in value is a Class X felony.

7 (E) Aggravated identity theft for a violation of
8 any offense enumerated in paragraphs (2) through (7.5)
9 of subsection (a) of this Section is a Class 2 felony.

10 (F) Aggravated identity theft when a person who,
11 within a 12-month period, is found in violation of any
12 offense enumerated in paragraphs (2) through (7.5) of
13 subsection (a) of this Section with identifiers of, or
14 other information relating to, 3 or more separate
15 individuals, at the same time or consecutively, is a
16 Class 1 felony.

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

23 (f) As used in this Section, "another" or "another person"
24 includes, but is not limited to, an individual, whether living
25 or deceased or real or fictitious. It also includes any
26 entity, firm, association, organization, partnership, business

1 trust, company, corporation, limited liability company,
2 professional corporation, or other private or public entity.

3 (Source: P.A. 101-324, eff. 1-1-20.)