

1 AMENDMENT TO HOUSE BILL 2188

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2188 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Criminal Code of 1961 is amended by  
5 adding Section 16G-30 as follows:

6 (720 ILCS 5/16G-30 new)

7 Sec. 16G-30. Mandating law enforcement agencies to accept  
8 and provide reports; judicial factual determination.

9 (a) A person who has learned or reasonably suspects that  
10 his or her personal identifying information has been  
11 unlawfully used by another may initiate a law enforcement  
12 investigation by contacting the local law enforcement agency  
13 that has jurisdiction over his or her actual residence, which  
14 shall take a police report of the matter, provide the  
15 complainant with a copy of that report, and begin an  
16 investigation of the facts or, if the suspected crime was  
17 committed in a different jurisdiction, refer the matter to  
18 the law enforcement agency where the suspected crime was  
19 committed for an investigation of the facts.

20 (b) A person who reasonably believes that he or she is  
21 the victim of financial identity theft may petition a court,  
22 or the court, on its own motion or upon application of the

1 prosecuting attorney, may move for an expedited judicial  
2 determination of his or her factual innocence, where the  
3 perpetrator of the financial identity theft was arrested for,  
4 cited for, or convicted of a crime under the victim's  
5 identity, or where a criminal complaint has been filed  
6 against the perpetrator in the victim's name, or where the  
7 victim's identity has been mistakenly associated with a  
8 criminal conviction. Any judicial determination of factual  
9 innocence made pursuant to this subsection (b) may be heard  
10 and determined upon declarations, affidavits, police reports,  
11 or other material, relevant, and reliable information  
12 submitted by the parties or ordered to be part of the record  
13 by the court. If the court determines that the petition or  
14 motion is meritorious and that there is no reasonable cause  
15 to believe that the victim committed the offense for which  
16 the perpetrator of the identity theft was arrested, cited,  
17 convicted, or subject to a criminal complaint in the victim's  
18 name, or that the victim's identity has been mistakenly  
19 associated with a record of criminal conviction, the court  
20 shall find the victim factually innocent of that offense. If  
21 the victim is found factually innocent, the court shall issue  
22 an order certifying this determination.

23 (c) After a court has issued a determination of factual  
24 innocence under this Section, the court may order the name  
25 and associated personal identifying information contained in  
26 the court records, files, and indexes accessible by the  
27 public sealed, deleted, or labeled to show that the data is  
28 impersonated and does not reflect the defendant's identity.

29 (d) A court that has issued a determination of factual  
30 innocence under this Section may at any time vacate that  
31 determination if the petition, or any information submitted  
32 in support of the petition, is found to contain any material  
33 misrepresentation or fraud."