



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB0151

Introduced 2/8/2011, by Sen. Tim Bivins

#### SYNOPSIS AS INTRODUCED:

720 ILCS 5/16G-10  
720 ILCS 5/16G-15  
720 ILCS 5/16G-20

Amends the Criminal Code of 1961. Provides that a person commits identity theft when he or she knowingly uses, possesses, or transfers a radio frequency identification device capable of obtaining or processing personal identifying information from a radio frequency identification (RFID) tag or transponder with knowledge that the device will be used by the person or another to commit a felony violation of State law or any violation of the Identity Theft Law. Provides that, in addition to other elements of the offense, aggravated identity theft consists of the proscribed conduct. Establishes penalties.

LRB097 06635 RLC 46721 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

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 1961 is amended by changing  
5 Sections 16G-10, 16G-15, and 16G-20 as follows:

6 (720 ILCS 5/16G-10)

7 Sec. 16G-10. Definitions. In this Article unless the  
8 context otherwise requires:

9 (a) "Personal identification document" means a birth  
10 certificate, a drivers license, a State identification card, a  
11 public, government, or private employment identification card,  
12 a social security card, a firearm owner's identification card,  
13 a credit card, a debit card, or a passport issued to or on  
14 behalf of a person other than the offender, or any document  
15 made or issued, or falsely purported to have been made or  
16 issued, by or under the authority of the United States  
17 Government, the State of Illinois, or any other State political  
18 subdivision of any state, or any other governmental or  
19 quasi-governmental organization that is of a type intended for  
20 the purpose of identification of an individual, or any such  
21 document made or altered in a manner that it falsely purports  
22 to have been made on behalf of or issued to another person or  
23 by the authority of one who did not give that authority.

1 (b) "Personal identifying information" means any of the  
2 following information:

3 (1) A person's name;

4 (2) A person's address;

5 (2.5) A person's date of birth;

6 (3) A person's telephone number;

7 (4) A person's drivers license number or State of  
8 Illinois identification card as assigned by the Secretary  
9 of State of the State of Illinois or a similar agency of  
10 another state;

11 (5) A person's Social Security number;

12 (6) A person's public, private, or government  
13 employer, place of employment, or employment  
14 identification number;

15 (7) The maiden name of a person's mother;

16 (8) The number assigned to a person's depository  
17 account, savings account, or brokerage account;

18 (9) The number assigned to a person's credit or debit  
19 card, commonly known as a "Visa Card", "Master Card",  
20 "American Express Card", "Discover Card", or other similar  
21 cards whether issued by a financial institution,  
22 corporation, or business entity;

23 (10) Personal identification numbers;

24 (11) Electronic identification numbers;

25 (12) Digital signals;

26 (12.5) User names, passwords, and any other word,

1           number, character or combination of the same usable in  
2           whole or part to access information relating to a specific  
3           individual, or to the actions taken, communications made or  
4           received, or other activities or transactions of a specific  
5           individual.

6           (13) Any other numbers or information which can be used  
7           to access a person's financial resources, or to identify a  
8           specific individual, or the actions taken, communications  
9           made or received, or other activities or transactions of a  
10          specific individual.

11          (c) "Document-making implement" means any implement,  
12          impression, template, computer file, computer disc, electronic  
13          device, computer hardware, computer software, instrument, or  
14          device that is used to make a real or fictitious or fraudulent  
15          personal identification document.

16          (d) "Financial transaction device" means any of the  
17          following:

18                 (1) An electronic funds transfer card.

19                 (2) A credit card.

20                 (3) A debit card.

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

22                 (5) Any instrument, device, card, plate, code, account  
23          number, personal identification number, or a record or copy  
24          of a code, account number, or personal identification  
25          number or other means of access to a credit account or  
26          deposit account, or a driver's license or state

1 identification card used to access a proprietary account,  
2 other than access originated solely by a paper instrument,  
3 that can be used alone or in conjunction with another  
4 access device, for any of the following purposes:

5 (A) Obtaining money, cash refund or credit  
6 account, credit, goods, services, or any other thing of  
7 value.

8 (B) Certifying or guaranteeing to a person or  
9 business the availability to the device holder of funds  
10 on deposit to honor a draft or check payable to the  
11 order of that person or business.

12 (C) Providing the device holder access to a deposit  
13 account for the purpose of making deposits,  
14 withdrawing funds, transferring funds between deposit  
15 accounts, obtaining information pertaining to a  
16 deposit account, or making an electronic funds  
17 transfer.

18 (e) "Radio frequency identification device" means any  
19 implement, computer file, computer disc, electronic device,  
20 computer hardware, computer software, or instrument that is  
21 used to activate, read, receive, or decode information stored  
22 on a RFID tag or transponder attached to a personal  
23 identification document.

24 (f) "RFID tag or transponder" means a chip or device that  
25 contains personal identifying information from which the  
26 personal identifying information can be read or decoded by

1 another device emitting a radio frequency that activates or  
2 powers a radio frequency emission response from the chip or  
3 transponder.

4 (Source: P.A. 93-401, eff. 7-31-03; 94-38, eff. 6-16-05;  
5 94-1008, eff. 7-5-06.)

6 (720 ILCS 5/16G-15)

7 Sec. 16G-15. Identity theft.

8 (a) A person commits the offense of identity theft when he  
9 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);~~or~~  
18 ~~or~~

19 (3) obtains, records, possesses, sells, transfers,  
20 purchases, or manufactures any personal identification  
21 information or personal identification document of another  
22 with intent to commit or to aid or abet another in  
23 committing any felony theft or other felony violation of  
24 State law;~~or~~

25 (4) uses, obtains, records, possesses, sells,

1 transfers, purchases, or manufactures any personal  
2 identification information or personal identification  
3 document of another knowing that such personal  
4 identification information or personal identification  
5 documents were stolen or produced without lawful  
6 authority;~~7- or~~

7 (5) uses, transfers, or possesses document-making  
8 implements to produce false identification or false  
9 documents with knowledge that they will be used by the  
10 person or another to commit any felony theft or other  
11 felony violation of State law;~~7- or~~

12 (6) uses any personal identification information or  
13 personal identification document of another to portray  
14 himself or herself as that person, or otherwise, for the  
15 purpose of gaining access to any personal identification  
16 information or personal identification document of that  
17 person, without the prior express permission of that  
18 person;~~7- or~~

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

25 (7.5) uses, possesses, or transfers a radio frequency  
26 identification device capable of obtaining or processing

1 personal identifying information from a radio frequency  
2 identification (RFID) tag or transponder with knowledge  
3 that the device will be used by the person or another to  
4 commit a felony violation of State law or any violation of  
5 this Article;

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

15 (9) ~~(8)~~ in the course of applying for a building permit  
16 with a unit of local government, provides the license  
17 number of a fire sprinkler contractor whom he or she does  
18 not intend to have perform the work on the fire sprinkler  
19 portion of the project; it. ~~It~~ is an affirmative defense to  
20 prosecution under this paragraph (9) ~~(8)~~ that the building  
21 permit applicant promptly informed the unit of local  
22 government that issued the building permit of any change in  
23 the fire sprinkler contractor.

24 (b) Knowledge shall be determined by an evaluation of all  
25 circumstances surrounding the use of the other person's  
26 identifying information or document.



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

7 (d) Sentence.

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

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

1 of the Armed Services or Reserve Forces of the United  
2 States or of the Illinois National Guard serving in a  
3 foreign country is a Class 3 felony. A person who has  
4 been previously convicted of identity theft of less  
5 than \$300 who is convicted of a second or subsequent  
6 offense of identity theft of less than \$300 when the  
7 victim of the identity theft is an active duty member  
8 of the Armed Services or Reserve Forces of the United  
9 States or of the Illinois National Guard serving in a  
10 foreign country is guilty of a Class 2 felony. A person  
11 who has been convicted of identity theft of less than  
12 \$300 when the victim of the identity theft is an active  
13 duty member of the Armed Services or Reserve Forces of  
14 the United States or of the Illinois National Guard  
15 serving in a foreign country who has been previously  
16 convicted of any type of theft, robbery, armed robbery,  
17 burglary, residential burglary, possession of burglary  
18 tools, home invasion, home repair fraud, aggravated  
19 home repair fraud, or financial exploitation of an  
20 elderly or disabled person is guilty of a Class 2  
21 felony. When a person has any such prior conviction,  
22 the information or indictment charging that person  
23 shall state the prior conviction so as to give notice  
24 of the State's intention to treat the charge as a Class  
25 3 felony. The fact of the prior conviction is not an  
26 element of the offense and may not be disclosed to the

1 jury during trial unless otherwise permitted by issues  
2 properly raised during the trial.

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

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

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

1           \$100,000 in value when the victim of the identity theft  
2           is an active duty member of the Armed Services or  
3           Reserve Forces of the United States or of the Illinois  
4           National Guard serving in a foreign country is a Class  
5           X felony.

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

9           (2) A person convicted of any offense enumerated in  
10          paragraphs (2) through (7.5) ~~(7)~~ of subsection (a) is  
11          guilty of a Class 3 felony. A person convicted of any  
12          offense enumerated in paragraphs (2) through (7.5) ~~(7)~~ of  
13          subsection (a) when the victim of the identity theft is an  
14          active duty member of the Armed Services or Reserve Forces  
15          of the United States or of the Illinois National Guard  
16          serving in a foreign country is guilty of a Class 2 felony.

17          (3) A person convicted of any offense enumerated in  
18          paragraphs (2) through (5) and (7.5) of subsection (a) a  
19          second or subsequent time is guilty of a Class 2 felony. A  
20          person convicted of any offense enumerated in paragraphs  
21          (2) through (5) and (7.5) of subsection (a) a second or  
22          subsequent time when the victim of the identity theft is an  
23          active duty member of the Armed Services or Reserve Forces  
24          of the United States or of the Illinois National Guard  
25          serving in a foreign country is guilty of a Class 1 felony.

26          (4) A person who, within a 12 month period, is found in

1 violation of any offense enumerated in paragraphs (2)  
2 through (7.5) ~~(7)~~ of subsection (a) with respect to the  
3 identifiers of, or other information relating to, 3 or more  
4 separate individuals, at the same time or consecutively, is  
5 guilty of a Class 2 felony. A person who, within a 12 month  
6 period, is found in violation of any offense enumerated in  
7 paragraphs (2) through (7.5) ~~(7)~~ of subsection (a) with  
8 respect to the identifiers of, or other information  
9 relating to, 3 or more separate individuals, at the same  
10 time or consecutively, when the victim of the identity  
11 theft 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 of a  
14 Class 1 felony.

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

1 to purchase methamphetamine manufacturing material as  
2 defined in Section 10 of the Methamphetamine Control and  
3 Community Protection Act with the intent to unlawfully  
4 manufacture methamphetamine when the victim of the  
5 identity theft is an active duty member of the Armed  
6 Services or Reserve Forces of the United States or of the  
7 Illinois National Guard serving in a foreign country is  
8 guilty of a Class 1 felony for a first offense and a Class  
9 X felony for a second or subsequent offense.

10 (6) A person convicted of identity theft in violation  
11 of paragraph (8) or (9) of subsection (a) of this Section  
12 is ~~shall be~~ guilty of a Class 4 felony.

13 (Source: P.A. 95-60, eff. 1-1-08; 95-331, eff. 8-21-07;  
14 96-1324, eff. 7-27-10; 96-1455, eff. 8-20-10; revised  
15 9-16-10.)

16 (720 ILCS 5/16G-20)

17 Sec. 16G-20. Aggravated identity theft.

18 (a) A person commits the offense of aggravated identity  
19 theft when he or she commits the offense of identity theft as  
20 set forth in subsection (a) of Section 16G-15:

21 (1) against a person 60 years of age or older or a  
22 disabled person as defined in Section 16-1.3 of this Code;  
23 or

24 (2) in furtherance of the activities of an organized  
25 gang.

1 For purposes of this Section, "organized gang" has the  
2 meaning ascribed to that term in Section 10 of the Illinois  
3 Streetgang Terrorism Omnibus Prevention Act.

4 (b) Knowledge shall be determined by an evaluation of all  
5 circumstances surrounding the use of the other person's  
6 identifying information or document.

7 (c) When a charge of aggravated identity theft of credit,  
8 money, goods, services, or other property exceeding a specified  
9 value is brought the value of the credit, money, goods,  
10 services, or other property is an element of the offense to be  
11 resolved by the trier of fact as either exceeding or not  
12 exceeding the specified value.

13 (d) A defense to aggravated identity theft under paragraph  
14 (a)(1) does not exist merely because the accused reasonably  
15 believed the victim to be a person less than 60 years of age.

16 (e) Sentence.

17 (1) Aggravated identity theft of credit, money, goods,  
18 services, or other property not exceeding \$300 in value is  
19 a Class 3 felony.

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

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

26 (4) Aggravated identity theft of credit, money, goods,

1 services, or other property exceeding \$100,000 in value is  
2 a Class X felony.

3 (4.1) Aggravated identity theft for a violation of any  
4 offense enumerated in paragraphs (2) through (7.5) ~~(7)~~ of  
5 subsection (a) of Section 16G-15 of this Code is a Class 2  
6 felony.

7 (4.2) Aggravated identity theft when a person who,  
8 within a 12 month period, is found in violation of any  
9 offense enumerated in paragraphs (2) through (7.5) ~~(7)~~ of  
10 subsection (a) of Section 16G-15 with identifiers of, or  
11 other information relating to, 3 or more separate  
12 individuals, at the same time or consecutively, is a Class  
13 1 felony.

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

20 (Source: P.A. 95-199, eff. 8-16-07; 96-243, eff. 8-11-09.)