

AN ACT in relation to identity theft.

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

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

(720 ILCS 5/16G-30 new)

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

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

(b) A person who reasonably believes that he or she is
the victim of financial identity theft may petition a court,
or the court, on its own motion or upon application of the
prosecuting attorney, may move for an expedited judicial
determination of his or her factual innocence, where the
perpetrator of the financial identity theft was arrested for,
cited for, or convicted of a crime under the victim's
identity, or where a criminal complaint has been filed
against the perpetrator in the victim's name, or where the
victim's identity has been mistakenly associated with a
criminal conviction. Any judicial determination of factual
innocence made pursuant to this subsection (b) may be heard

and determined upon declarations, affidavits, police reports, or other material, relevant, and reliable information submitted by the parties or ordered to be part of the record by the court. If the court determines that the petition or motion is meritorious and that there is no reasonable cause to believe that the victim committed the offense for which the perpetrator of the identity theft was arrested, cited, convicted, or subject to a criminal complaint in the victim's name, or that the victim's identity has been mistakenly associated with a record of criminal conviction, the court shall find the victim factually innocent of that offense. If the victim is found factually innocent, the court shall issue an order certifying this determination.

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

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

Section 10. The Consumer Fraud and Deceptive Business Practices Act is amended by adding Section 2MM as follows:

(815 ILCS 505/2MM new)

Sec. 2MM. Verification of accuracy of credit reporting information used to extend consumers credit.

(a) A credit card issuer who mails an offer or solicitation to apply for a credit card and who receives a completed application in response to the offer or

solicitation which lists an address that is not substantially the same as the address on the offer or solicitation may not issue a credit card based on that application until reasonable steps have been taken to verify the applicant's change of address.

(b) Any person who uses a consumer credit report in connection with the approval of credit based on the application for an extension of credit, and who has received notification of a police report filed with a consumer reporting agency that the applicant has been a victim of financial identity theft, as defined in Section 16G-15 of the Criminal Code of 1961, may not lend money or extend credit without taking reasonable steps to verify the consumer's identity and confirm that the application for an extension of credit is not the result of financial identity theft.

(c) For purposes of this Section, "extension of credit" does not include an increase in an existing open-end credit plan, as defined in Regulation Z of the Federal Reserve System (12 C.F.R. 226.2), or any change to or review of an existing credit account.

(d) Any person who violates subsection (a) or subsection (b) commits an unlawful practice within the meaning of this Act.