

2249

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. QUART, WEPRIN, ORTIZ, BENEDETTO, GUNTHER, BOYLAND, ROBINSON, LAVINE, TITUS, HOOPER -- Multi-Sponsored by -- M. of A. BRENNAN, GIBSON, SCARBOROUGH, SCHIMEL, SIMANOWITZ -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, the general business law and the state technology law, in relation to adding medical and health insurance information within the definitions of identity theft

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Section 190.78 of the penal law, as added by chapter 619 of  
2 the laws of 2002, is amended to read as follows:  
3 S 190.78 Identity theft in the third degree.  
4 A person is guilty of identity theft in the third degree when he or  
5 she knowingly and with intent to defraud assumes the identity of another  
6 person by presenting himself or herself as that other person, or by  
7 acting as that other person or by using personal identifying information  
8 of that other person, and thereby:  
9 1. obtains goods, money, MEDICAL INFORMATION, HEALTH INSURANCE INFOR-  
10 MATION, property or services or uses credit in the name of such other  
11 person or causes financial loss to such person or to another person or  
12 persons; or  
13 2. commits a class A misdemeanor or higher level crime.  
14 3. (A) FOR THE PURPOSES OF THIS SECTION, THE TERM "MEDICAL INFORMA-  
15 TION" MEANS ANY INFORMATION REGARDING AN INDIVIDUAL'S MEDICAL HISTORY,  
16 MENTAL OR PHYSICAL CONDITION, OR MEDICAL TREATMENT OR DIAGNOSIS BY A  
17 HEALTH CARE PROFESSIONAL.  
18 (B) FOR THE PURPOSES OF THIS SECTION, THE TERM "HEALTH INSURANCE  
19 INFORMATION" MEANS AN INDIVIDUAL'S HEALTH INSURANCE POLICY NUMBER OR  
20 SUBSCRIBER IDENTIFICATION NUMBER, ANY UNIQUE IDENTIFIER USED BY A HEALTH  
21 INSURER TO IDENTIFY THE INDIVIDUAL OR ANY INFORMATION IN AN INDIVIDUAL'S

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD00607-01-3

1 APPLICATION AND CLAIMS HISTORY, INCLUDING, BUT NOT LIMITED TO, APPEALS  
2 HISTORY.

3 Identity theft in the third degree is a class A misdemeanor.

4 S 2. Section 190.79 of the penal law, as added by chapter 619 of the  
5 laws of 2002 and subdivision 4 as amended by chapter 279 of the laws  
6 2008, is amended to read as follows:

7 S 190.79 Identity theft in the second degree.

8 A person is guilty of identify theft in the second degree when he or  
9 she knowingly and with intent to defraud assumes the identity of another  
10 person by presenting himself or herself as that other person, or by  
11 acting as that other person or by using personal identifying information  
12 of that other person, and thereby:

13 1. obtains goods, money, MEDICAL INFORMATION, HEALTH INSURANCE INFOR-  
14 MATION, property or services or uses credit in the name of such other  
15 person in an aggregate amount that exceeds five hundred dollars; or

16 2. causes financial loss to such person or to another person or  
17 persons in an aggregate amount that exceeds five hundred dollars; or

18 3. commits or attempts to commit a felony or acts as an accessory to  
19 the commission of a felony; or

20 4. commits the crime of identity theft in the third degree as defined  
21 in section 190.78 of this article and has been previously convicted  
22 within the last five years of identity theft in the third degree as  
23 defined in section 190.78, identity theft in the second degree as  
24 defined in this section, identity theft in the first degree as defined  
25 in section 190.80, unlawful possession of personal identification infor-  
26 mation in the third degree as defined in section 190.81, unlawful  
27 possession of personal identification information in the second degree  
28 as defined in section 190.82, unlawful possession of personal identifi-  
29 cation information in the first degree as defined in section 190.83,  
30 unlawful possession of a skimmer device in the second degree as defined  
31 in section 190.85, unlawful possession of a skimmer device in the first  
32 degree as defined in section 190.86, grand larceny in the fourth degree  
33 as defined in section 155.30, grand larceny in the third degree as  
34 defined in section 155.35, grand larceny in the second degree as defined  
35 in section 155.40 or grand larceny in the first degree as defined in  
36 section 155.42 of this chapter.

37 5. (A) FOR THE PURPOSES OF THIS SECTION, THE TERM "MEDICAL INFORMA-  
38 TION" MEANS ANY INFORMATION REGARDING AN INDIVIDUAL'S MEDICAL HISTORY,  
39 MENTAL OR PHYSICAL CONDITION, OR MEDICAL TREATMENT OR DIAGNOSIS BY A  
40 HEALTH CARE PROFESSIONAL.

41 (B) FOR THE PURPOSES OF THIS SECTION, THE TERM "HEALTH INSURANCE  
42 INFORMATION" MEANS AN INDIVIDUAL'S HEALTH INSURANCE POLICY NUMBER OR  
43 SUBSCRIBER IDENTIFICATION NUMBER, ANY UNIQUE IDENTIFIER USED BY A HEALTH  
44 INSURER TO IDENTIFY THE INDIVIDUAL OR ANY INFORMATION IN AN INDIVIDUAL'S  
45 APPLICATION AND CLAIMS HISTORY, INCLUDING, BUT NOT LIMITED TO, APPEALS  
46 HISTORY.

47 Identity theft in the second degree is a class E felony.

48 S 3. Subparagraph 3 of paragraph (b) of subdivision 1 of section 899-  
49 aa of the general business law, as added by chapter 442 of the laws of  
50 2005, is amended and two new subparagraphs 4 and 5 and two new closing  
51 paragraphs are added to read as follows:

52 (3) account number, credit or debit card number, in combination with  
53 any required security code, access code, or password that would permit  
54 access to an individual's financial account; OR

55 (4) MEDICAL INFORMATION; OR

56 (5) HEALTH INSURANCE INFORMATION;

1 FOR THE PURPOSES OF THIS PARAGRAPH, "MEDICAL INFORMATION" MEANS ANY  
2 INFORMATION REGARDING AN INDIVIDUAL'S MEDICAL HISTORY, MENTAL OR PHYS-  
3 ICAL CONDITION, OR MEDICAL TREATMENT OR DIAGNOSIS BY A HEALTH CARE  
4 PROFESSIONAL.

5 FOR THE PURPOSES OF THIS PARAGRAPH, "HEALTH INSURANCE INFORMATION"  
6 MEANS AN INDIVIDUAL'S HEALTH INSURANCE POLICY NUMBER OR SUBSCRIBER IDEN-  
7 TIFICATION NUMBER, ANY UNIQUE IDENTIFIER USED BY A HEALTH INSURER TO  
8 IDENTIFY THE INDIVIDUAL OR ANY INFORMATION IN AN INDIVIDUAL'S APPLICA-  
9 TION AND CLAIMS HISTORY, INCLUDING, BUT NOT LIMITED TO, APPEALS HISTORY.

10 S 4. Subparagraph 3 of paragraph (a) of subdivision 1 of section 208  
11 of the state technology law, as added by chapter 442 of the laws of  
12 2005, is amended and two new subparagraphs 4 and 5 and two new closing  
13 paragraphs are added to read as follows:

14 (3) account number, credit or debit card number, in combination with  
15 any required security code, access code, or password which would permit  
16 access to an individual's financial account[.]; OR

17 (4) MEDICAL INFORMATION; OR

18 (5) HEALTH INSURANCE INFORMATION.

19 FOR THE PURPOSES OF THIS PARAGRAPH, "MEDICAL INFORMATION" MEANS ANY  
20 INFORMATION REGARDING AN INDIVIDUAL'S MEDICAL HISTORY, MENTAL OR PHYS-  
21 ICAL CONDITION, OR MEDICAL TREATMENT OR DIAGNOSIS BY A HEALTH CARE  
22 PROFESSIONAL.

23 FOR THE PURPOSES OF THIS PARAGRAPH, "HEALTH INSURANCE INFORMATION"  
24 MEANS AN INDIVIDUAL'S HEALTH INSURANCE POLICY NUMBER OR SUBSCRIBER IDEN-  
25 TIFICATION NUMBER, ANY UNIQUE IDENTIFIER USED BY A HEALTH INSURER TO  
26 IDENTIFY THE INDIVIDUAL OR ANY INFORMATION IN AN INDIVIDUAL'S APPLICA-  
27 TION AND CLAIMS HISTORY, INCLUDING, BUT NOT LIMITED TO, APPEALS HISTORY.

28 S 5. This act shall take effect on the ninetieth day after it shall  
29 have become a law; provided, however, that effective immediately, the  
30 addition, amendment and/or repeal of any rule or regulation necessary  
31 for the implementation of this act on its effective date are authorized  
32 and directed to be made and completed on or before such effective date.