4043

2015-2016 Regular Sessions

IN SENATE

February 26, 2015

Introduced by Sen. SAMPSON -- read twice and ordered printed, and when printed to be committed 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 ASSEM-BLY, DO ENACT AS FOLLOWS:

Section 1. Section 190.78 of the penal law, as added by chapter 619 of 1 the laws of 2002, is amended to read as follows: 2 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 person by presenting himself or herself as that other person, 6 or by acting as that other person or by using personal identifying information 7 8 of that other person, and thereby:

9 1. obtains goods, money, MEDICAL INFORMATION, HEALTH INSURANCE INFOR-MATION, property or services or uses credit in the name of such other 10 person or causes financial loss to such person or to another person or 11 12 persons; or

2. commits a class A misdemeanor or higher level crime.

3. (A) FOR THE PURPOSES OF THIS SECTION, THE TERM 14 "MEDICAL INFORMA-15 MEANS ANY INFORMATION REGARDING AN INDIVIDUAL'S MEDICAL HISTORY, TION" 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 SUBSCRIBER IDENTIFICATION NUMBER, ANY UNIQUE IDENTIFIER USED BY A HEALTH 20 INSURER TO IDENTIFY THE INDIVIDUAL OR ANY INFORMATION IN AN INDIVIDUAL'S 21 22 APPLICATION AND CLAIMS HISTORY, INCLUDING, BUT NOT LIMITED TO, APPEALS 23 HISTORY.

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

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

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S 2. Section 190.79 of the penal law, as added by chapter 619 of the 1 laws of 2002 and subdivision 4 as amended by chapter 279 of the laws 2008, is amended to read as follows:

4 S 190.79 Identity theft in the second degree.

A person is guilty of identify theft in the second degree when he or she knowingly and with intent to defraud assumes the identity of another 5 6 7 person by presenting himself or herself as that other person, or by 8 acting as that other person or by using personal identifying information 9 of that other person, and thereby:

10 obtains goods, money, MEDICAL INFORMATION, HEALTH INSURANCE INFOR-1. 11 MATION, property or services or uses credit in the name of such other person in an aggregate amount that exceeds five hundred dollars; or 12

13 2. causes financial loss to such person or to another person or 14 persons in an aggregate amount that exceeds five hundred dollars; or

15 3. commits or attempts to commit a felony or acts as an accessory to 16 the commission of a felony; or

17 commits the crime of identity theft in the third degree as defined 4. in section 190.78 of this article and has been previously convicted 18 within the last five years of identity theft in the third degree as 19 defined in section 190.78, identity theft in the second degree as defined in this section, identity theft in the first degree as defined 20 21 22 in section 190.80, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful 23 possession of personal identification information in the second degree 24 25 as defined in section 190.82, unlawful possession of personal identifi-26 cation information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined 27 section 190.85, unlawful possession of a skimmer device in the first 28 in 29 degree as defined in section 190.86, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined 30 31 32 in section 155.40 or grand larceny in the first degree as defined in 33 section 155.42 of this chapter.

34 5. (A) FOR THE PURPOSES OF THIS SECTION, THE TERM "MEDICAL INFORMA-35 TION" MEANS ANY INFORMATION REGARDING AN INDIVIDUAL'S MEDICAL HISTORY, MENTAL OR PHYSICAL CONDITION, OR MEDICAL TREATMENT OR DIAGNOSIS BY A 36 37 HEALTH CARE PROFESSIONAL.

38 (B) FOR THE PURPOSES OF THIS SECTION, THE TERM "HEALTH INSURANCE 39 INFORMATION" MEANS AN INDIVIDUAL'S HEALTH INSURANCE POLICY NUMBER OR 40 SUBSCRIBER IDENTIFICATION NUMBER, ANY UNIQUE IDENTIFIER USED BY A HEALTH INSURER TO IDENTIFY THE INDIVIDUAL OR ANY INFORMATION IN AN INDIVIDUAL'S 41 APPLICATION AND CLAIMS HISTORY, INCLUDING, BUT NOT LIMITED TO, APPEALS 42 43 HISTORY.

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

45 3. Subparagraph 3 of paragraph (b) of subdivision 1 of section 899-S aa of the general business law, as added by chapter 442 of the laws of 46 47 is amended and two new subparagraphs 4 and 5 and two new closing 2005, 48 paragraphs are added to read as follows:

(3) account number, credit or debit card number, in combination with 49 50 required security code, access code, or password that would permit any 51 access to an individual's financial account; OR

52 (4) MEDICAL INFORMATION; OR

53 (5) HEALTH INSURANCE INFORMATION;

54 FOR THE PURPOSES OF THIS PARAGRAPH, "MEDICAL INFORMATION" MEANS ANY 55 INFORMATION REGARDING AN INDIVIDUAL'S MEDICAL HISTORY, MENTAL OR PHYS-

ICAL CONDITION, OR MEDICAL TREATMENT OR DIAGNOSIS BY A HEALTH CARE 1 2 PROFESSIONAL. 3 PURPOSES OF THIS PARAGRAPH, "HEALTH INSURANCE INFORMATION" FOR THE 4 MEANS AN INDIVIDUAL'S HEALTH INSURANCE POLICY NUMBER OR SUBSCRIBER IDEN-5 TIFICATION NUMBER, ANY UNIQUE IDENTIFIER USED BY A HEALTH INSURER TO INDIVIDUAL OR ANY INFORMATION IN AN INDIVIDUAL'S APPLICA-6 IDENTIFY THE 7 TION AND CLAIMS HISTORY, INCLUDING, BUT NOT LIMITED TO, APPEALS HISTORY. S 4. Subparagraph 3 of paragraph (a) of subdivision 1 of section 208 8 9 of the state technology law, as added by chapter 442 of the laws of 10 2005, is amended and two new subparagraphs 4 and 5 and two new closing paragraphs are added to read as follows: 11 12 (3) account number, credit or debit card number, in combination with 13 any required security code, access code, or password which would permit 14 access to an individual's financial account[.]; OR 15 (4) MEDICAL INFORMATION; OR 16 (5) HEALTH INSURANCE INFORMATION. 17 FOR THE PURPOSES OF THIS PARAGRAPH, "MEDICAL INFORMATION" MEANS ANY INFORMATION REGARDING AN INDIVIDUAL'S MEDICAL HISTORY, MENTAL OR PHYS-18 19 ICAL CONDITION, OR MEDICAL TREATMENT OR DIAGNOSIS BY A HEALTH CARE 20 PROFESSIONAL. 21 FOR THE PURPOSES OF THIS PARAGRAPH, "HEALTH INSURANCE INFORMATION" MEANS AN INDIVIDUAL'S HEALTH INSURANCE POLICY NUMBER OR SUBSCRIBER IDEN-22 23 TIFICATION NUMBER, ANY UNIQUE IDENTIFIER USED BY A HEALTH INSURER TO 24 IDENTIFY THE INDIVIDUAL OR ANY INFORMATION IN AN INDIVIDUAL'S APPLICA-25 TION AND CLAIMS HISTORY, INCLUDING, BUT NOT LIMITED TO, APPEALS HISTORY. 26 S 5. This act shall take effect on the ninetieth day after it shall

27 have become a law; provided, however, that effective immediately, the 28 addition, amendment and/or repeal of any rule or regulation necessary 29 for the implementation of this act on its effective date are authorized 30 and directed to be made and completed on or before such effective date.