

# STATE OF NEW YORK

4025

2021-2022 Regular Sessions

## IN ASSEMBLY

February 1, 2021

Introduced by M. of A. DICKENS -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to identity theft

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 190.77 of the penal law, as separately amended by chapters 226 and 279 of the laws of 2008, is amended to read as follows:

2 1. For the purposes of sections 190.78, 190.79, 190.80 [~~and~~], 190.80-a and 190.85 of this article "personal identifying information" means a person's name, address, telephone number, date of birth, driver's license number, social security number, place of employment, mother's maiden name, financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, taxpayer identification number, computer system password, signature or copy of a signature, electronic signature, unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person that capture or enable the reproduction of unique physical attributes of another person, telephone calling card number, mobile identification number or code, electronic serial number or personal identification number, or any other name, number, code or information that may be used alone or in conjunction with other such information to assume the identity of another person.

21 § 2. Section 190.80 of the penal law, as added by chapter 619 of the laws of 2002, subdivision 4 as amended by chapter 279 of the laws of 2008, is amended to read as follows:

24 § 190.80 Identity theft in the first degree.

25 A person is guilty of identity theft in the first degree when he or she knowingly and with intent to defraud assumes the identity of another

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

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1 person by presenting himself or herself as that other person, or by  
2 acting as that other person or by using personal identifying information  
3 of that other person or with the intent to sell or distribute the  
4 personal identifying information of that other person, and thereby:

5 1. obtains goods, money, property or services or uses credit in the  
6 name of such other person in an aggregate amount that exceeds two thou-  
7 sand dollars; or

8 2. causes financial loss to such person or to another person or  
9 persons in an aggregate amount that exceeds two thousand dollars; or

10 3. commits or attempts to commit a class D felony or higher level  
11 crime or acts as an accessory in the commission of a class D or higher  
12 level felony; or

13 4. commits the crime of identity theft in the second degree as defined  
14 in section 190.79 of this article and has been previously convicted  
15 within the last five years of identity theft in the third degree as  
16 defined in section 190.78, identity theft in the second degree as  
17 defined in section 190.79, identity theft in the first degree as defined  
18 in this section, unlawful possession of personal identification informa-  
19 tion in the third degree as defined in section 190.81, unlawful  
20 possession of personal identification information in the second degree  
21 as defined in section 190.82, unlawful possession of personal identifi-  
22 cation information in the first degree as defined in section 190.83,  
23 unlawful possession of a skimmer device in the second degree as defined  
24 in section 190.85, unlawful possession of a skimmer device in the first  
25 degree as defined in section 190.86, grand larceny in the fourth degree  
26 as defined in section 155.30, grand larceny in the third degree as  
27 defined in section 155.35, grand larceny in the second degree as defined  
28 in section 155.40 or grand larceny in the first degree as defined in  
29 section 155.42 of this chapter[-]; or

30 5. avoids a summons, arrest or prosecution or impedes a criminal  
31 investigation.

32 Identity theft in the first degree is a class D felony.

33 § 3. Section 190.81 of the penal law, as added by chapter 619 of the  
34 laws of 2002, is amended to read as follows:

35 § 190.81 Unlawful possession of personal identification information in  
36 the third degree.

37 A person is guilty of unlawful possession of personal identification  
38 information in the third degree when he or she knowingly possesses a  
39 person's financial services account number or code, savings account  
40 number or code, checking account number or code, brokerage account  
41 number or code, credit card account number or code, debit card number or  
42 code, automated teller machine number or code, personal identification  
43 number, mother's maiden name, computer system password, electronic  
44 signature or unique biometric data that is a fingerprint, voice print,  
45 retinal image or iris image of another person that capture or enable the  
46 reproduction of unique physical attributes of another person knowing  
47 such information is intended to be used in furtherance of the commission  
48 of a crime defined in this chapter.

49 Unlawful possession of personal identification information in the  
50 third degree is a class A misdemeanor.

51 § 4. Section 190.82 of the penal law, as added by chapter 619 of the  
52 laws of 2002, is amended to read as follows:

53 § 190.82 Unlawful possession of personal identification information in  
54 the second degree.

55 A person is guilty of unlawful possession of personal identification  
56 information in the second degree when he or she knowingly possesses two

1 hundred fifty or more items of personal identification information of  
2 the following nature: a person's financial services account number or  
3 code, savings account number or code, checking account number or code,  
4 brokerage account number or code, credit card account number or code,  
5 debit card number or code, automated teller machine number or code,  
6 personal identification number, mother's maiden name, computer system  
7 password, electronic signature or unique biometric data that is a fing-  
8 erprint, voice print, retinal image or iris image of another person that  
9 capture or enable the reproduction of unique physical attributes of  
10 another person knowing such information is intended to be used in furth-  
11 erance of the commission of a crime defined in this chapter.

12 Unlawful possession of personal identification information in the  
13 second degree is a class E felony.

14 § 5. This act shall take effect on the one hundred eightieth day after  
15 it shall have become a law.