

# STATE OF NEW YORK

209--A

Cal. No. 962

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. PERSAUD -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 § 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, property or services or uses credit in the  
10 name of such other person or causes financial loss to such person or to  
11 another person or persons; or

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

13 3. obtains medical information and/or health insurance information in  
14 the name of such person.

15 4. (a) For the purposes of this section, the term "medical informa-  
16 tion" means any information regarding an individual's medical history,  
17 mental or physical condition, or medical treatment or diagnosis by a  
18 health care professional.

19 (b) For the purposes of this section, the term "health insurance  
20 information" means an individual's health insurance policy number or

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

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1 subscriber identification number, any unique identifier used by a health  
2 insurer to identify the individual or any information in an individual's  
3 application and claims history, including, but not limited to, appeals  
4 history.

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

6 § 2. Section 190.79 of the penal law, as added by chapter 619 of the  
7 laws of 2002 and subdivision 4 as amended by chapter 279 of the laws  
8 2008, is amended to read as follows:

9 § 190.79 Identity theft in the second degree.

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

15 1. obtains goods, money, medical information, health insurance infor-  
16 mation, property or services or uses credit in the name of such other  
17 person in an aggregate amount that exceeds five hundred dollars; or

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

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

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

39 5. (a) For the purposes of this section, the term "medical informa-  
40 tion" means any information regarding an individual's medical history,  
41 mental or physical condition, or medical treatment or diagnosis by a  
42 health care professional.

43 (b) For the purposes of this section, the term "health insurance  
44 information" means an individual's health insurance policy number or  
45 subscriber identification number, any unique identifier used by a health  
46 insurer to identify the individual or any information in an individual's  
47 application and claims history, including, but not limited to, appeals  
48 history.

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

50 § 3. Subparagraph (i) of paragraph (b) of subdivision 1 of section  
51 899-aa of the general business law is amended by adding two new clauses  
52 6 and 7 and two new closing paragraphs to read as follows:

53 (6) medical information; or

54 (7) health insurance information; or

55 For the purposes of this paragraph, "medical information" means any  
56 information regarding an individual's medical history, mental or phys-

1 ical condition, or medical treatment or diagnosis by a health care  
2 professional.

3 For the purposes of this paragraph, "health insurance information"  
4 means an individual's health insurance policy number or subscriber iden-  
5 tification number, any unique identifier used by a health insurer to  
6 identify the individual or any information in an individual's applica-  
7 tion and claims history, including, but not limited to, appeals history.

8 § 4. Subparagraph (i) of paragraph (a) of subdivision 1 of section 208  
9 of the state technology law is amended by adding two new clauses 6 and 7  
10 and two new closing paragraphs to read as follows:

11 (6) medical information; or

12 (7) health insurance information; or

13 For the purposes of this paragraph, "medical information" means any  
14 information regarding an individual's medical history, mental or phys-  
15 ical condition, or medical treatment or diagnosis by a health care  
16 professional.

17 For the purposes of this paragraph, "health insurance information"  
18 means an individual's health insurance policy number or subscriber iden-  
19 tification number, any unique identifier used by a health insurer to  
20 identify the individual or any information in an individual's applica-  
21 tion and claims history, including, but not limited to, appeals history.

22 § 5. This act shall take effect on the ninetieth day after it shall  
23 have become a law. Effective immediately, the addition, amendment and/or  
24 repeal of any rule or regulation necessary for the implementation of  
25 this act on its effective date are authorized and directed to be made  
26 and completed on or before such effective date.