

STATE OF NEW YORK

4737--A

2023-2024 Regular Sessions

IN ASSEMBLY

February 23, 2023

Introduced by M. of A. LAVINE -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- 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. Subdivision 2 of section 190.77 of the penal law is
2 amended by adding two new paragraphs d and e to read as follows:

3 d. "medical information" means any information regarding an individ-
4 ual's medical history, mental or physical condition, or medical treat-
5 ment or diagnosis by a health care professional.

6 e. "health insurance information" means an individual's health insur-
7 ance policy number or subscriber identification number, any unique iden-
8 tifier used by a health insurer to identify the individual or any infor-
9 mation in an individual's application and claims history, including, but
10 not limited to, appeals history.

11 § 2. Section 190.78 of the penal law, as added by chapter 619 of the
12 laws of 2002, is amended to read as follows:

13 § 190.78 Identity theft in the third degree.

14 A person is guilty of identity theft in the third degree when [~~he or~~
15 ~~she~~] such person knowingly and with intent to defraud assumes the iden-
16 tity of another person by presenting [~~himself or herself~~] themselves as
17 that other person, or by acting as that other person or by using
18 personal identifying information of that other person, and thereby:

19 1. obtains goods, money, property or services or uses credit in the
20 name of such other person or causes financial loss to such person or to
21 another person or persons; or

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

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

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

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

4 § 3. 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 of
6 2008, is amended to read as follows:

7 § 190.79 Identity theft in the second degree.

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

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

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

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

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

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

39 § 4. Section 190.80 of the penal law, as added by chapter 619 of the
40 laws of 2002, subdivision 4 as amended by chapter 279 of the laws of
41 2008, is amended to read as follows:

42 § 190.80 Identity theft in the first degree.

43 A person is guilty of identity theft in the first degree when [~~he or~~
44 ~~she~~] such person knowingly and with intent to defraud assumes the iden-
45 tity of another person by presenting [~~himself or herself~~] themselves as
46 that other person, or by acting as that other person or by using
47 personal identifying information of that other person, and thereby:

48 1. obtains goods, money, medical information, health insurance infor-
49 mation, property or services or uses credit in the name of such other
50 person in an aggregate amount that exceeds two thousand dollars; or

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

53 3. commits or attempts to commit a class D felony or higher level
54 crime or acts as an accessory in the commission of a class D or higher
55 level felony; or

1 4. commits the crime of identity theft in the second degree as defined
2 in section 190.79 of this article and has been previously convicted
3 within the last five years of identity theft in the third degree as
4 defined in section 190.78, identity theft in the second degree as
5 defined in section 190.79, identity theft in the first degree as defined
6 in this section, unlawful possession of personal identification informa-
7 tion in the third degree as defined in section 190.81, unlawful
8 possession of personal identification information in the second degree
9 as defined in section 190.82, unlawful possession of personal identifi-
10 cation information in the first degree as defined in section 190.83,
11 unlawful possession of a skimmer device in the second degree as defined
12 in section 190.85, unlawful possession of a skimmer device in the first
13 degree as defined in section 190.86, grand larceny in the fourth degree
14 as defined in section 155.30, grand larceny in the third degree as
15 defined in section 155.35, grand larceny in the second degree as defined
16 in section 155.40 or grand larceny in the first degree as defined in
17 section 155.42 of this chapter.

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

19 § 5. Paragraph (b) of subdivision 1 of section 899-aa of the general
20 business law is amended by adding two new undesignated paragraphs and
21 subparagraph (i) of such paragraph is amended by adding two new clauses
22 6 and 7 to read as follows:

23 (6) medical information; or

24 (7) health insurance information; or

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

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

34 § 6. Paragraph (a) of subdivision 1 of section 208 of the state tech-
35 nology law is amended by adding two new undesignated paragraphs and
36 subparagraph (i) of such paragraph is amended by adding two new clauses
37 6 and 7 to read as follows:

38 (6) medical information; or

39 (7) health insurance information; or

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

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

49 § 7. This act shall take effect on the ninetieth day after it shall
50 have become a law. Effective immediately, the addition, amendment
51 and/or repeal of any rule or regulation necessary for the implementation
52 of this act on its effective date are authorized to be made and
53 completed on or before such effective date.