

# STATE OF NEW YORK

4737

2023-2024 Regular Sessions

## IN ASSEMBLY

February 23, 2023

Introduced by M. of A. LAVINE -- 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 § 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  
21 subscriber identification number, any unique identifier used by a health  
22 insurer to identify the individual or any information in an individual's  
23 application and claims history, including, but not limited to, appeals  
24 history.

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

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

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

5 § 190.79 Identity theft in the second degree.

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

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

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

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

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

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

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

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

46 § 3. Subparagraph (i) of paragraph (b) of subdivision 1 of section  
47 899-aa of the general business law is amended by adding two new clauses  
48 6 and 7 and two new undesignated paragraphs to read as follows:

49 (6) medical information; or

50 (7) health insurance information; or

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

55 For the purposes of this paragraph, "health insurance information"  
56 means an individual's health insurance policy number or subscriber iden-

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

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

7 (6) medical information; or

8 (7) health insurance information; or

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

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

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