

STATE OF NEW YORK

74

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, the criminal procedure law, the general business law, the state technology law and the executive law, in relation to offenses involving theft of identity; and to repeal certain provisions of the criminal procedure law and the penal law relating thereto

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

1 Section 1. Title K of the penal law is amended by adding a new article
2 191 to read as follows:

ARTICLE 191

OFFENSES INVOLVING THEFT OF IDENTITY

Section 191.00 Definitions.

6 191.05 Petit identity theft.

7 191.10 Identity theft in the fourth degree.

8 191.15 Identity theft in the third degree.

9 191.20 Identity theft in the second degree.

10 191.25 Identity theft in the first degree.

11 191.30 Unlawful possession of personal identifying information
12 in the third degree.

13 191.35 Unlawful possession of personal identifying information
14 in the second degree.

15 191.40 Unlawful possession of personal identifying information
16 in the first degree.

17 191.45 Defenses.

18 191.50 Unlawful possession of a skimmer device in the second
19 degree.

20 191.55 Unlawful possession of a skimmer device in the first
21 degree.

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

LBD00123-01-5

1 § 191.00 Definitions.

2 1. For the purposes of this article "personal identifying information"
3 means a person's name, address, telephone number, date of birth, driv-
4 er's license number, social security number, place of employment, moth-
5 er's maiden name, financial services account number or code, savings
6 account number or code, checking account number or code, brokerage
7 account number or code, credit card account number or code, debit card
8 number or code, automated teller machine number or code, taxpayer iden-
9 tification number, computer system password, signature or copy of a
10 signature, electronic signature, unique biometric data that is a finger-
11 print, voice print, retinal image or iris image of another person, tele-
12 phone calling card number, mobile identification number or code, elec-
13 tronic serial number or personal identification number, medical
14 information, medical insurance information, or any other name, number,
15 code or information that may be used alone or in conjunction with other
16 such information to assume the identity of another person.

17 2. For the purposes of this article:

18 (a) "electronic signature" shall have the same meaning as defined in
19 subdivision three of section three hundred two of the state technology
20 law.

21 (b) "personal identification number" means any number or code which
22 may be used alone or in conjunction with any other information to assume
23 the identity of another person or access financial resources or credit
24 of another person.

25 (c) "member of the armed forces" shall mean a person in the military
26 service of the United States or the military service of the state,
27 including but not limited to, the armed forces of the United States, the
28 army national guard, the air national guard, the New York naval militia,
29 the New York guard, and such additional forces as may be created by the
30 federal or state government as authorized by law.

31 (d) "medical information" means any information regarding an individ-
32 ual's medical history, mental or physical condition, or medical treat-
33 ment or diagnosis by a health care professional.

34 (e) "medical insurance information" means an individual's health
35 insurance policy number or subscriber identification number, any unique
36 identifier used by a health insurer to identify the individual or any
37 information in an individual's application and claims history, includ-
38 ing, but not limited to, appeals history.

39 § 191.05 Petit identity theft.

40 A person is guilty of petit identity theft when such person knowingly
41 and with intent to defraud assumes the identity of another person by
42 presenting themselves as that other person, or by acting as that other
43 person or by using personal identifying information of that other
44 person, and thereby obtains goods, money, property or services or uses
45 credit in the name of such other person or causes financial loss to such
46 person or to another person or persons.

47 Petit identity theft is a class A misdemeanor.

48 § 191.10 Identity theft in the fourth degree.

49 A person is guilty of identity theft in the fourth degree when such
50 person knowingly and with intent to defraud:

51 1. assumes the identity of another person by presenting themselves as
52 that other person, or by acting as that other person or by using
53 personal identifying information of that other person, and thereby:

54 (a) obtains goods, money, property or services or uses credit in the
55 name of such other person in an aggregate amount that exceeds five
56 hundred dollars; or

1 (b) causes financial loss to such person or to another person or
2 persons in an aggregate amount that exceeds five hundred dollars; or

3 (c) commits or attempts to commit a felony or acts as an accessory to
4 the commission of a felony; or

5 (d) commits the crime of petit identity theft as defined in section
6 191.05 of this article and knows that such other person is a member of
7 the armed forces and that such member is presently deployed outside of
8 the continental United States; or

9 (e) commits the crime of petit identity theft as defined in section
10 191.05 of this article and knows that such other person is a vulnerable
11 elderly person as defined in subdivision three of section 260.31 of this
12 chapter, or a person who is unable to care for themselves because of phys-
13 ical disability, mental disease or defect, or because such person is a
14 minor; or

15 2. assumes the identity of three or more persons by presenting them-
16 self as those other persons, or by acting as those other persons, or by
17 using personal identifying information of those other persons, and
18 thereby obtains goods, money, property or services or uses credit in the
19 name of those persons, or causes financial loss to at least one such
20 person, or to another person or persons.

21 Identity theft in the fourth degree is a class E felony.

22 § 191.15 Identity theft in the third degree.

23 A person is guilty of identity theft in the third degree when such
24 person knowingly and with intent to defraud:

25 1. assumes the identity of another person by presenting themselves as
26 that other person, or by acting as that other person or by using
27 personal identifying information of that other person, and thereby:

28 (a) obtains goods, money, property or services or uses credit in the
29 name of such other person in an aggregate amount that exceeds two thou-
30 sand dollars; or

31 (b) causes financial loss to such person or to another person or
32 persons in an aggregate amount that exceeds two thousand dollars; or

33 (c) commits or attempts to commit a class D felony or higher level
34 crime or acts as an accessory to the commission of a class D or higher
35 level felony; or

36 (d) commits the crime of identity theft in the fourth degree as
37 defined in section 191.10 of this article and has been previously
38 convicted within the last five years of petit identity theft as defined
39 in section 191.05, identity theft in the fourth degree as defined in
40 section 191.10, identity theft in the third degree as defined in this
41 section, identity theft in the second degree as defined in section
42 191.20, identity theft in the first degree as defined in section 191.25,
43 unlawful possession of personal identifying information in the third
44 degree as defined in section 191.30, unlawful possession of personal
45 identifying information in the second degree as defined in section
46 191.35, unlawful possession of personal identifying information in the
47 first degree as defined in section 191.40, unlawful possession of a
48 skimmer device in the second degree as defined in section 191.50, unlaw-
49 ful possession of a skimmer device in the first degree as defined in
50 section 191.55, grand larceny in the fourth degree as defined in section
51 155.30, grand larceny in the third degree as defined in section 155.35,
52 grand larceny in the second degree as defined in section 155.40 or grand
53 larceny in the first degree as defined in section 155.42, criminal
54 possession of a forged instrument in the third degree as defined in
55 section 170.20, criminal possession of a forged instrument in the second
56 degree as defined in section 170.25, criminal possession of a forged

1 instrument in the first degree as defined in section 170.30, criminal
2 possession of stolen property in the fifth degree as defined in section
3 165.40, criminal possession of stolen property in the fourth degree as
4 defined in section 165.45, criminal possession of stolen property in the
5 third degree as defined in section 165.50, criminal possession of stolen
6 property in the second degree as defined in section 165.52, criminal
7 possession of stolen property in the first degree as defined in section
8 165.54, or criminal possession of forgery devices as defined in section
9 170.40 of this chapter; or

10 (e) commits the crime of identity theft in the fourth degree as
11 defined in section 191.10 of this article and knows that such other
12 person is a member of the armed forces, and knows that such member is
13 presently deployed outside of the continental United States; or

14 (f) commits the crime of identity theft in the fourth degree as
15 defined in section 191.10 of this article and knows that such other
16 person is a vulnerable elderly person as defined in subdivision three of
17 section 260.31 of this chapter, or a person who is unable to care for
18 themselves because of physical disability, mental disease or defect, or
19 because such person is a minor; or

20 2. assumes the identity of ten or more persons by presenting themselves
21 as those other persons, or by acting as those other persons, or by using
22 personal identifying information of those other persons, and thereby
23 obtains goods, money, property or services or uses credit in the name of
24 those persons, or causes financial loss to at least one such person, or
25 to another person or persons.

26 Identity theft in the third degree is a class D felony.

27 § 191.20 Identity theft in the second degree.

28 A person is guilty of identity theft in the second degree when such
29 person knowingly and with intent to defraud:

30 1. assumes the identity of another person by presenting themselves
31 as that other person, or by acting as that other person or by using
32 personal identifying information of that other person, and thereby:

33 (a) obtains goods, money, property or services or uses credit in the
34 name of such other person in an aggregate amount that exceeds twenty-
35 five thousand dollars; or

36 (b) causes financial loss to such person or to another person or
37 persons in an aggregate amount that exceeds twenty-five thousand
38 dollars; or

39 (c) commits or attempts to commit a class C felony or higher level
40 crime or acts as an accessory in the commission of a class C or higher
41 level felony; or

42 (d) commits the crime of identity theft in the third degree as defined
43 in section 191.15 of this article and has been previously convicted
44 within the last five years of petit identity theft as defined in section
45 191.05, identity theft in the fourth degree as defined in section
46 191.10, identity theft in the third degree as defined in section 191.15,
47 identity theft in the second degree as defined in this section, identity
48 theft in the first degree as defined in section 191.25, unlawful
49 possession of personal identifying information in the third degree as
50 defined in section 191.30, unlawful possession of personal identifying
51 information in the second degree as defined in section 191.35, unlawful
52 possession of personal identifying information in the first degree as
53 defined in section 191.40, unlawful possession of a skimmer device in
54 the second degree as defined in section 191.50, unlawful possession of a
55 skimmer device in the first degree as defined in section 191.55, grand
56 larceny in the fourth degree as defined in section 155.30, grand larceny

1 in the third degree as defined in section 155.35, grand larceny in the
2 second degree as defined in section 155.40 or grand larceny in the first
3 degree as defined in section 155.42, criminal possession of a forged
4 instrument in the third degree as defined in section 170.20, criminal
5 possession of a forged instrument in the second degree as defined in
6 section 170.25, criminal possession of a forged instrument in the first
7 degree as defined in section 170.30, criminal possession of stolen prop-
8 erty in the fifth degree as defined in section 165.40, criminal
9 possession of stolen property in the fourth degree as defined in section
10 165.45, criminal possession of stolen property in the third degree as
11 defined in section 165.50, criminal possession of stolen property in the
12 second degree as defined in section 165.52, criminal possession of
13 stolen property in the first degree as defined in section 165.54, or
14 criminal possession of forgery devices as defined in section 170.40 of
15 this chapter; or

16 (e) commits the crime of identity theft in the third degree as defined
17 in section 191.15 of this article and knows that such other person is a
18 member of the armed forces and that such member is presently deployed
19 outside of the continental United States; or

20 (f) commits the crime of identity theft in the third degree as defined
21 in section 191.15 of this article and knows that such other person is a
22 vulnerable elderly person as defined in subdivision three of section
23 260.31 of this chapter, or a person who is unable to care for themself
24 because of physical disability, mental disease or defect, or because
25 such person is a minor; or

26 2. assumes the identity of twenty-five or more persons by presenting
27 themself as those other persons, or by acting as those other persons, or
28 by using personal identifying information of those other persons, and
29 thereby obtains goods, money, property or services or uses credit in the
30 name of those persons, or causes financial loss to at least one such
31 person, or to another person or persons.

32 Identity theft in the second degree is a class C felony.

33 § 191.25 Identity theft in the first degree.

34 A person is guilty of identity theft in the first degree when such
35 person knowingly and with intent to defraud:

36 1. assumes the identity of another person by presenting themself as
37 that other person, or by acting as that other person or by using
38 personal identifying information of that other person, and thereby:

39 (a) obtains goods, money, property or services or uses credit in the
40 name of such other person in an aggregate amount that exceeds two
41 hundred thousand dollars; or

42 (b) causes financial loss to such person or to another person or
43 persons in an aggregate amount that exceeds two hundred thousand
44 dollars; or

45 (c) commits or attempts to commit a class B felony or higher level
46 crime or acts as an accessory in the commission of a class B or higher
47 level felony; or

48 (d) commits the crime of identity theft in the second degree as
49 defined in section 191.20 of this article and has been previously
50 convicted within the last five years of petit identity theft as defined
51 in section 191.05, identity theft in the fourth degree as defined in
52 section 191.10, identity theft in the third degree as defined in section
53 191.15, identity theft in the second degree as defined in section 191.20
54 of this article, identity theft in the first degree as defined in this
55 section, unlawful possession of personal identifying information in the
56 second degree as defined in section 191.35, unlawful possession of

1 personal identifying information in the first degree as defined in
2 section 191.40, unlawful possession of a skimmer device in the second
3 degree as defined in section 191.50, unlawful possession of a skimmer
4 device in the first degree as defined in section 191.55, grand larceny
5 in the fourth degree as defined in section 155.30, grand larceny in the
6 third degree as defined in section 155.35, grand larceny in the second
7 degree as defined in section 155.40 or grand larceny in the first degree
8 as defined in section 155.42, criminal possession of a forged instrument
9 in the third degree as defined in section 170.20, criminal possession of
10 a forged instrument in the second degree as defined in section 170.25,
11 criminal possession of a forged instrument in the first degree as
12 defined in section 170.30, criminal possession of stolen property in the
13 fifth degree as defined in section 165.40, criminal possession of stolen
14 property in the fourth degree as defined in section 165.45, criminal
15 possession of stolen property in the third degree as defined in section
16 165.50, criminal possession of stolen property in the second degree as
17 defined in section 165.52, criminal possession of stolen property in the
18 first degree as defined in section 165.54, or criminal possession of
19 forgery devices as defined in section 170.40 of this chapter; or

20 (e) commits the crime of identity theft in the second degree as
21 defined in section 191.20 of this article and knows that such other
22 person is a member of the armed forces, and knows that such member is
23 presently deployed outside of the continental United States; or

24 (f) commits the crime of identity theft in the second degree as
25 defined in section 191.20 of this article and knows that such other
26 person is a vulnerable elderly person as defined in subdivision three of
27 section 260.31 of this chapter, or a person who is unable to care for
28 themselves because of physical disability, mental disease or defect, or
29 because such person is a minor; or

30 2. assumes the identity of fifty or more persons by presenting them-
31 self as those other persons, or by acting as those other persons, or by
32 using personal identifying information of those other persons, and
33 thereby obtains goods, money, property or services or uses credit in the
34 name of those persons, or causes financial loss to at least one such
35 person, or to another person or persons.

36 Identity theft in the first degree is a class B felony.

37 § 191.30 Unlawful possession of personal identifying information in the
38 third degree.

39 A person is guilty of unlawful possession of personal identifying
40 information in the third degree when such person knowingly possesses a
41 person's personal identifying information as defined in section 191.00
42 of this article of another person knowing such information is intended
43 to be used in furtherance of the commission of a crime defined in this
44 chapter.

45 Unlawful possession of personal identifying information in the third
46 degree is a class A misdemeanor.

47 § 191.35 Unlawful possession of personal identifying information in the
48 second degree.

49 A person is guilty of unlawful possession of personal identifying
50 information in the second degree when such person knowingly possesses
51 fifty or more items of personal identifying information as defined in
52 section 191.00 of this article knowing such information is intended to
53 be used in furtherance of the commission of a crime defined in this
54 chapter.

55 Unlawful possession of personal identifying information in the second
56 degree is a class E felony.

1 § 191.40 Unlawful possession of personal identifying information in the
2 first degree.

3 A person is guilty of unlawful possession of personal identifying
4 information in the first degree when such person commits the crime of
5 unlawful possession of personal identifying information in the second
6 degree and:

7 1. with intent to further the commission of identity theft in the
8 third degree, such person supervises more than three accomplices; or

9 2. such person has been previously convicted within the last five
10 years of petit identity theft as defined in section 191.05, identity
11 theft in the fourth degree as defined in section 191.10, identity theft
12 in the third degree as defined in section 191.15, identity theft in the
13 second degree as defined in section 191.20, identity theft in the first
14 degree as defined in section 191.25, unlawful possession of personal
15 identifying information in the third degree as defined in section
16 191.30, unlawful possession of personal identifying information in the
17 second degree as defined in section 191.35, unlawful possession of
18 personal identifying information in the first degree as defined in this
19 section, unlawful possession of a skimmer device in the second degree as
20 defined in section 191.50, unlawful possession of a skimmer device in
21 the first degree as defined in section 191.55, grand larceny in the
22 fourth degree as defined in section 155.30, grand larceny in the third
23 degree as defined in section 155.35, grand larceny in the second degree
24 as defined in section 155.40 or grand larceny in the first degree as
25 defined in section 155.42, criminal possession of a forged instrument in
26 the third degree as defined in section 170.20, criminal possession of a
27 forged instrument in the second degree as defined in section 170.25,
28 criminal possession of a forged instrument in the first degree as
29 defined in section 170.30, criminal possession of stolen property in the
30 fifth degree as defined in section 165.40, criminal possession of stolen
31 property in the fourth degree as defined in section 165.45, criminal
32 possession of stolen property in the third degree as defined in section
33 165.50, criminal possession of stolen property in the second degree as
34 defined in section 165.52, criminal possession of stolen property in the
35 first degree as defined in section 165.54, or criminal possession of
36 forgery devices as defined in section 170.40 of this chapter; or

37 3. with intent to further the commission of identity theft in the
38 second degree:

39 (a) such person supervises more than two accomplices, and

40 (b) such person knows that the person whose personal identifying
41 information that such person possesses is a member of the armed forces,
42 and

43 (c) such person knows that such member of the armed forces is present-
44 ly deployed outside of the continental United States.

45 Unlawful possession of personal identifying information in the first
46 degree is a class D felony.

47 § 191.45 Defenses.

48 In any prosecution for identity theft or unlawful possession of
49 personal identifying information pursuant to this article, it shall be
50 an affirmative defense that the person charged with the offense:

51 1. was under twenty-one years of age at the time of committing the
52 offense and the person used or possessed the personal identifying infor-
53 mation of another solely for the purpose of purchasing alcohol;

54 2. was under eighteen years of age at the time of committing the
55 offense and the person used or possessed the personal identifying infor-

1 mation of another solely for the purpose of purchasing tobacco products;
2 or

3 3. used or possessed the personal identifying information of another
4 person solely for the purpose of misrepresenting the person's age to
5 gain access to a place the access to which is restricted based on age.
6 § 191.50 Unlawful possession of a skimmer device in the second degree.

7 1. A person is guilty of unlawful possession of a skimmer device in
8 the second degree when such person possesses a skimmer device with the
9 intent that such device be used in furtherance of the commission of the
10 crime of identity theft or unlawful possession of personal identifying
11 information as defined in this article.

12 2. For purposes of this article, "skimmer device" means a device
13 designed or adapted to obtain personal identifying information from a
14 credit card, debit card, public benefit card, access card or device, or
15 other card or device that contains personal identifying information.

16 Unlawful possession of a skimmer device in the second degree is a
17 class A misdemeanor.

18 § 191.55 Unlawful possession of a skimmer device in the first degree.

19 A person is guilty of unlawful possession of a skimmer device in the
20 first degree when such person commits the crime of unlawful possession
21 of a skimmer device in the second degree and such person has been previ-
22 ously convicted within the last five years of identity theft in the
23 fourth degree as defined in section 191.10, identity theft in the third
24 degree as defined in section 191.15, identity theft in the second degree
25 as defined in section 191.20, identity theft in the first degree as
26 defined in section 191.25, unlawful possession of personal identifying
27 information in the third degree as defined in section 191.30, unlawful
28 possession of personal identifying information in the second degree as
29 defined in section 191.35, unlawful possession of personal identifying
30 information in the first degree as defined in section 191.40, unlawful
31 possession of a skimmer device in the second degree as defined in
32 section 191.50, unlawful possession of a skimmer device in the first
33 degree as defined in this section, grand larceny in the fourth degree as
34 defined in section 155.30, grand larceny in the third degree as defined
35 in section 155.35, grand larceny in the second degree as defined in
36 section 155.40, grand larceny in the first degree as defined in section
37 155.42, criminal possession of a forged instrument in the third degree
38 as defined in section 170.20, criminal possession of a forged instrument
39 in the second degree as defined in section 170.25, criminal possession
40 of a forged instrument in the first degree as defined in section 170.30,
41 criminal possession of stolen property in the fifth degree as defined in
42 section 165.40, criminal possession of stolen property in the fourth
43 degree as defined in section 165.45, criminal possession of stolen prop-
44 erty in the third degree as defined in section 165.50, criminal
45 possession of stolen property in the second degree as defined in section
46 165.52, criminal possession of stolen property in the first degree as
47 defined in section 165.54, or criminal possession of forgery devices as
48 defined in section 170.40 of this chapter.

49 Unlawful possession of a skimmer device in the first degree is a class
50 E felony.

51 § 2. Paragraph (a) of subdivision 1 of section 460.10 of the penal
52 law, as amended by chapter 134 of the laws of 2019, is amended to read
53 as follows:

54 (a) Any of the felonies set forth in this chapter: sections 120.05,
55 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relat-
56 ing to strangulation; sections 125.10 to 125.27 relating to homicide;

1 sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and
2 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to
3 labor trafficking; section 135.65 relating to coercion; sections 140.20,
4 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and
5 145.12 relating to criminal mischief; article one hundred fifty relating
6 to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand
7 larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health
8 care fraud; article one hundred sixty relating to robbery; sections
9 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of
10 stolen property; sections 165.72 and 165.73 relating to trademark coun-
11 terfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and
12 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and
13 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and
14 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating
15 to criminal diversion of prescription medications and prescriptions;
16 sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03,
17 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56,
18 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15,
19 187.20 and 187.25 relating to residential mortgage fraud, sections
20 190.40 and 190.42 relating to criminal usury; section 190.65 relating to
21 schemes to defraud; sections 191.05, 191.10, 191.15, 191.20, 191.25,
22 191.30, 191.35, 191.40, 191.50 and 191.55 relating to identity theft;
23 any felony defined in article four hundred ninety-six; sections 205.60
24 and 205.65 relating to hindering prosecution; sections 210.10, 210.15,
25 and 215.51 relating to perjury and contempt; section 215.40 relating to
26 tampering with physical evidence; sections 220.06, 220.09, 220.16,
27 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55,
28 220.60, 220.65 and 220.77 relating to controlled substances; sections
29 225.10 and 225.20 relating to gambling; sections 230.25, 230.30, and
30 230.32 relating to promoting prostitution; section 230.34 relating to
31 sex trafficking; section 230.34-a relating to sex trafficking of a
32 child; sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity;
33 sections 263.10 and 263.15 relating to promoting [a] an obscene sexual
34 performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12,
35 265.13 and the provisions of section 265.10 which constitute a felony
36 relating to firearms and other dangerous weapons; sections 265.14 and
37 265.16 relating to criminal sale of a firearm; section 265.50 relating
38 to the criminal manufacture, sale or transport of an undetectable
39 firearm, rifle or shotgun; section 275.10, 275.20, 275.30, or 275.40
40 relating to unauthorized recordings; and sections 470.05, 470.10, 470.15
41 and 470.20 relating to money laundering; or

42 § 3. Paragraph (a) of subdivision 3 of section 490.05 of the penal
43 law, as amended by section 7 of part A of chapter 1 of the laws of 2004,
44 is amended to read as follows:

45 (a) "Specified offense" for purposes of this article means a class A
46 felony offense other than an offense as defined in article two hundred
47 twenty, a violent felony offense as defined in section 70.02,
48 manslaughter in the second degree as defined in section 125.15, criminal
49 tampering in the first degree as defined in section 145.20, identity
50 theft in the second degree as defined in section [~~190.79~~] 191.20, iden-
51 tity theft in the first degree as defined in section [~~190.80~~] 191.25,
52 unlawful possession of personal identification information in the second
53 degree as defined in section [~~190.82~~] 191.35, unlawful possession of
54 personal identification information in the first degree as defined in
55 section [~~190.83~~] 191.40, money laundering in support of terrorism in the
56 fourth degree as defined in section 470.21, money laundering in support

1 of terrorism in the third degree as defined in section 470.22, money
2 laundering in support of terrorism in the second degree as defined in
3 section 470.23, money laundering in support of terrorism in the first
4 degree as defined in section 470.24 of this chapter, and includes an
5 attempt or conspiracy to commit any such offense.

6 § 4. Paragraph (s) of subdivision 8 of section 700.05 of the criminal
7 procedure law is REPEALED and a new paragraph (s) is added to read as
8 follows:

9 (s) Petit identity theft as defined in section 191.05, identity theft
10 in the fourth degree as defined in section 191.10, identity theft in the
11 third degree as defined in section 191.15, identity theft in the second
12 degree as defined in section 191.20, identity theft in the first degree
13 as defined in section 191.25, unlawful possession of personal identify-
14 ing information in the third degree as defined in section 191.30, unlaw-
15 ful possession of personal identifying information in the second degree
16 as defined in section 191.35, unlawful possession of personal identify-
17 ing information in the first degree as defined in section 191.40, unlaw-
18 ful possession of a skimmer device in the second degree as defined in
19 section 191.50, or unlawful possession of a skimmer device in the first
20 degree as defined in section 191.55 of the penal law.

21 § 5. Paragraph (b) of subdivision 1 of section 899-aa of the general
22 business law, as amended by chapter 117 of the laws of 2019, is amended
23 to read as follows:

24 (b) "Private information" shall mean either: (i) personal information
25 consisting of any information in combination with any one or more of the
26 following data elements, when either the data element or the combination
27 of personal information plus the data element is not encrypted, or is
28 encrypted with an encryption key that has also been accessed or
29 acquired:

30 (1) social security number;

31 (2) driver's license number or non-driver identification card number;

32 (3) account number, credit or debit card number, in combination with
33 any required security code, access code, password or other information
34 that would permit access to an individual's financial account;

35 (4) account number, credit or debit card number, if circumstances
36 exist wherein such number could be used to access an individual's finan-
37 cial account without additional identifying information, security code,
38 access code, or password; [~~ex~~]

39 (5) biometric information, meaning data generated by electronic meas-
40 urements of an individual's unique physical characteristics, such as a
41 fingerprint, voice print, retina or iris image, or other unique physical
42 representation or digital representation of biometric data which are
43 used to authenticate or ascertain the individual's identity; [~~ex~~]

44 (6) medical information;

45 (7) health insurance information; or

46 (ii) a user name or e-mail address in combination with a password or
47 security question and answer that would permit access to an online
48 account.

49 For the purposes of this paragraph, "medical information" means any
50 information regarding an individual's medical history, mental or phys-
51 ical condition, or medical treatment or diagnosis by a health care
52 professional and "health insurance information" means an individual's
53 health insurance policy number or subscriber identification number, and
54 unique identifier used by a health insurer to identify the individual or
55 any information in an individual's application and claims history,
56 including, but not limited to, appeals history.

1 "Private information" does not include publicly available information
2 which is lawfully made available to the general public from federal,
3 state, or local government records.

4 § 6. Paragraph (a) of subdivision 1 of section 208 of the state tech-
5 nology law, as amended by chapter 117 of the laws of 2019, is amended to
6 read as follows:

7 (a) "Private information" shall mean either: (i) personal information
8 consisting of any information in combination with any one or more of the
9 following data elements, when either the data element or the combination
10 of personal information plus the data element is not encrypted or
11 encrypted with an encryption key that has also been accessed or
12 acquired:

13 (1) social security number;

14 (2) driver's license number or non-driver identification card number;

15 (3) account number, credit or debit card number, in combination with
16 any required security code, access code, password or other information
17 which would permit access to an individual's financial account;

18 (4) account number, or credit or debit card number, if circumstances
19 exist wherein such number could be used to access ~~to~~ an individual's
20 financial account without additional identifying information, security
21 code, access code, or password; ~~or~~

22 (5) biometric information, meaning data generated by electronic meas-
23 urements of an individual's unique physical characteristics, such as
24 fingerprint, voice print, or retina or iris image, or other unique phys-
25 ical representation or digital representation which are used to authen-
26 ticate or ascertain the individual's identity; ~~or~~

27 (6) medical information;

28 (7) health insurance information; or

29 (ii) a user name or e-mail address in combination with a password or
30 security question and answer that would permit access to an online
31 account.

32 For the purposes of this paragraph, "medical information" means any
33 information regarding an individual's medical history, mental or phys-
34 ical condition, or medical treatment or diagnosis by a health care
35 professional and "health insurance information" means an individual's
36 health insurance policy number or subscriber identification number, and
37 unique identifier used by a health insurer to identify the individual or
38 any information in an individual's application and claims history,
39 including, but not limited to, appeals history.

40 "Private information" does not include publicly available information
41 that is lawfully made available to the general public from federal,
42 state, or local government records.

43 § 7. Sections 190.77, 190.78, 190.79, 190.80, 190.80-a, 190.81,
44 190.82, 190.83, 190.84, 190.85 and 190.86 of the penal law are REPEALED.

45 § 8. Subdivision 1 of section 60.27 of the penal law, as amended by
46 chapter 279 of the laws of 2008, is amended to read as follows:

47 1. In addition to any of the dispositions authorized by this article,
48 the court shall consider restitution or reparation to the victim of the
49 crime and may require restitution or reparation as part of the sentence
50 imposed upon a person convicted of an offense, and after providing the
51 district attorney with an opportunity to be heard in accordance with the
52 provisions of this subdivision, require the defendant to make restitu-
53 tion of the fruits of ~~his or her~~ such defendant's offense or repara-
54 tion for the actual out-of-pocket loss caused thereby and, in the case
55 of a violation of section ~~[190.78, 190.79, 190.80, 190.82 or 190.83]~~
56 191.05, 191.10, 191.15, 191.20 or 191.25 of this chapter, any costs or

1 losses incurred due to any adverse action taken against the victim. The
2 district attorney shall where appropriate, advise the court at or before
3 the time of sentencing that the victim seeks restitution or reparation,
4 the extent of injury or economic loss or damage of the victim, and the
5 amount of restitution or reparation sought by the victim in accordance
6 with ~~[his or her]~~ such district attorney's responsibilities under subdivi-
7 sion two of section 390.50 of the criminal procedure law and article
8 twenty-three of the executive law. The court shall hear and consider the
9 information presented by the district attorney in this regard. In that
10 event, or when the victim impact statement reports that the victim seeks
11 restitution or reparation, the court shall require, unless the interests
12 of justice dictate otherwise, in addition to any of the dispositions
13 authorized by this article that the defendant make restitution of the
14 fruits of the offense and reparation for the actual out-of-pocket loss
15 and, in the case of a violation of section ~~[190.78, 190.79, 190.80,~~
16 ~~190.82 or 190.83]~~ 191.05, 191.10, 191.15, 191.20 or 191.25 of this chap-
17 ter, any costs or losses incurred due to any adverse action, caused
18 thereby to the victim. In the event that restitution or reparation are
19 not ordered, the court shall clearly state its reasons on the record.
20 Adverse action as used in this subdivision shall mean and include actual
21 loss incurred by the victim, including an amount equal to the value of
22 the time reasonably spent by the victim attempting to remediate the harm
23 incurred by the victim from the offense, and the consequential financial
24 losses from such action.

25 § 9. Paragraph (b) of subdivision 4 of section 60.27 of the penal law,
26 as amended by chapter 313 of the laws of 2011, is amended to read as
27 follows:

28 (b) the term "victim" shall include the victim of the offense, the
29 representative of a crime victim as defined in subdivision six of
30 section six hundred twenty-one of the executive law, an individual whose
31 identity was assumed or whose personal identifying information was used
32 in violation of section ~~[190.78, 190.79 or 190.80]~~ 191.05, 191.10,
33 191.15, 191.20 or 191.25 of this chapter, or any person who has suffered
34 a financial loss as a direct result of the acts of a defendant in
35 violation of section ~~[190.78, 190.79, 190.80, 190.82 or 190.83]~~ 191.05,
36 191.10, 191.15, 191.20 or 191.25 of this chapter, a good samaritan as
37 defined in section six hundred twenty-one of the executive law and the
38 office of victim services or other governmental agency that has received
39 an application for or has provided financial assistance or compensation
40 to the victim. A victim shall also mean any owner or lawful producer of
41 a master recording, or a trade association that represents such owner or
42 lawful producer, that has suffered injury as a result of an offense as
43 defined in article two hundred seventy-five of this chapter.

44 § 10. Subdivision 2 of section 646 of the executive law, as amended by
45 chapter 346 of the laws of 2007, is amended to read as follows:

46 2. An individual whose identity was assumed or whose personal identi-
47 fying information, as defined in ~~[section 190.77]~~ subdivision one of
48 section 191.00 of the penal law, was used in violation of section
49 ~~[190.78, 190.79 or 190.80]~~ 191.05, 191.10, 191.15, 191.20 or 191.25 of
50 the penal law, or any person who has suffered a financial loss as a
51 direct result of the acts of a defendant in violation of section
52 ~~[190.78, 190.79, 190.80, 190.82 or 190.83]~~ 191.05, 191.10, 191.15,
53 191.20 or 191.25 of the penal law, who has learned or reasonably
54 suspects that ~~[his or her]~~ such individual's personal identifying infor-
55 mation has been unlawfully used by another, may make a complaint to the
56 local law enforcement agency of the county in which any part of the

1 offense took place regardless of whether the defendant was actually
2 present in such county, or in the county in which the person who
3 suffered financial loss resided at the time of the commission of the
4 offense, or in the county where the person whose personal identification
5 information was used in the commission of the offense resided at the
6 time of the commission of the offense as provided in paragraph (1) of
7 subdivision four of section 20.40 of the criminal procedure law. Said
8 local law enforcement agency shall take a police report of the matter
9 and provide the complainant with a copy of such report free of charge.
10 § 11. This act shall take effect immediately.