

# 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.