

# ASSEMBLY, No. 4093

## STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JUNE 22, 2009

**Sponsored by:**

**Assemblyman DANIEL M. VAN PELT**

**District 9 (Atlantic, Burlington and Ocean)**

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**District 9 (Atlantic, Burlington and Ocean)**

**SYNOPSIS**

Increases penalties for identity theft when victim is a senior citizen or veteran.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning identity theft penalties and amending  
2 N.J.S.2C:21-17 and P.L.2003, c.184.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. N.J.S.2C:21-17 is amended to read as follows:

8 2C:21-17. Impersonation; Theft of Identity; crime.

9 a. A person is guilty of an offense if the person:

10 (1) Impersonates another or assumes a false identity and does an  
11 act in such assumed character or false identity for the purpose of  
12 obtaining a benefit for himself or another or to injure or defraud  
13 another;

14 (2) Pretends to be a representative of some person or  
15 organization and does an act in such pretended capacity for the  
16 purpose of obtaining a benefit for himself or another or to injure or  
17 defraud another;

18 (3) Impersonates another, assumes a false identity or makes a  
19 false or misleading statement regarding the identity of any person,  
20 in an oral or written application for services, for the purpose of  
21 obtaining services;

22 (4) Obtains any personal identifying information pertaining to  
23 another person and uses that information, or assists another person  
24 in using the information, in order to assume the identity of or  
25 represent himself as another person, without that person's  
26 authorization and with the purpose to fraudulently obtain or attempt  
27 to obtain a benefit or services, or avoid the payment of debt or other  
28 legal obligation or avoid prosecution for a crime by using the name  
29 of the other person; or

30 (5) Impersonates another, assumes a false identity or makes a  
31 false or misleading statement, in the course of making an oral or  
32 written application for services, with the purpose of avoiding  
33 payment for prior services. Purpose to avoid payment for prior  
34 services may be presumed upon proof that the person has not made  
35 full payment for prior services and has impersonated another,  
36 assumed a false identity or made a false or misleading statement  
37 regarding the identity of any person in the course of making oral or  
38 written application for services.

39 As used in this section:

40 "Benefit" means, but is not limited to, any property, any  
41 pecuniary amount, any services, any pecuniary amount sought to be  
42 avoided or any injury or harm perpetrated on another where there is  
43 no pecuniary value.

44 "Senior citizen" means a natural person 62 years of age or older.

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       “Veteran” means any citizen and resident of this State honorably  
2       discharged or released under honorable circumstances from the  
3       active military service of the United States.

4       b. (Deleted by amendment, P.L.2005, c.224).

5       c. A person who violates subsection a. of this section is guilty of  
6 a crime as follows:

7       (1) If the actor obtains a benefit or deprives another of a benefit  
8 in an amount less than \$500 and the offense involves the identity of  
9 one victim, the actor shall be guilty of a crime of the fourth degree  
10 except that a second or subsequent conviction for such an offense  
11 constitutes a crime of the third degree , except that if the victim is a  
12 senior citizen or a veteran, a first offense constitutes a crime of the  
13 third degree and a second or subsequent offense constitutes a crime  
14 of the second degree; or

15       (2) If the actor obtains a benefit or deprives another of a benefit  
16 in an amount of at least \$500 but less than \$75,000, or the offense  
17 involves the identity of at least two but less than five victims, the  
18 actor shall be guilty of a crime of the third degree , except that if  
19 any of the victims is a senior citizen or a veteran, the offense  
20 constitutes a crime of the second degree; or

21       (3) If the actor obtains a benefit or deprives another of a benefit  
22 in the amount of \$75,000 or more, or the offense involves the  
23 identity of five or more victims, the actor shall be guilty of a crime  
24 of the second degree , except that if any of the victims is a senior  
25 citizen or a veteran, the offense constitutes a crime of the first  
26 degree.

27       d. A violation of N.J.S.2C:28-7, constituting a disorderly persons  
28 offense, section 1 of P.L.1979, c.264 (C.2C:33-15), R.S.33:1-81 or  
29 section 6 of P.L.1968, c.313 (C.33:1-81.7) in a case where the  
30 person uses the personal identifying information of another to  
31 illegally purchase an alcoholic beverage or for using the personal  
32 identifying information of another to misrepresent his age for the  
33 purpose of obtaining tobacco or other consumer product denied to  
34 persons under 18 years of age shall not constitute an offense under  
35 this section if the actor received only that benefit or service and did  
36 not perpetrate or attempt to perpetrate any additional injury or fraud  
37 on another.

38       e. The sentencing court shall issue such orders as are necessary  
39 to correct any public record or government document that contains  
40 false information as a result of a theft of identity. The sentencing  
41 court may provide restitution to the victim in accordance with the  
42 provisions of section 4 of P.L.2002, c.85 (C.2C:21-17.1).

43 (cf: P.L.2005, c.224, s.2)

44  
45       2. Section 6 of P.L.2003, c.184 (C.2C:21-17.3) is amended to  
46 read as follows:

47       6. a. A person who knowingly distributes, manufactures or  
48 possesses any item containing personal identifying information

1 pertaining to another person, without that person's authorization,  
2 and with knowledge that the actor is facilitating a fraud or injury to  
3 be perpetrated by anyone is guilty of a crime of the fourth degree ,  
4 except in cases where the item containing personal identifying  
5 information was obtained through records owned or maintained by a  
6 continuing care retirement community, nursing home, retirement  
7 community, or veterans' facility, the offense shall constitute a crime  
8 of the third degree.

9 b. (1) If the person distributes, manufactures or possesses 20 or  
10 more items containing personal identifying information pertaining  
11 to another person, or five or more items containing personal  
12 information pertaining to five or more separate persons, without  
13 authorization, and with knowledge that the actor is facilitating a  
14 fraud or injury to be perpetrated by anyone the person is guilty of a  
15 crime of the third degree , except in cases where the items  
16 containing personal identifying information were obtained through  
17 records owned or maintained by a continuing care retirement  
18 community, nursing home, retirement community, or veterans'  
19 facility, the offense shall constitute a crime of the second degree.

20 (2) If the person distributes, manufactures or possesses 50 or  
21 more items containing personal identifying information pertaining  
22 to another person, or ten or more items containing personal  
23 identifying information pertaining to five or more separate persons,  
24 without authorization, and with knowledge that the actor is  
25 facilitating a fraud or injury to be perpetrated by anyone the person  
26 is guilty of a crime of the second degree , except in cases where the  
27 items containing personal identifying information were obtained  
28 through records owned or maintained by a continuing care  
29 retirement community, nursing home, retirement community, or  
30 veterans' facility, the offense shall constitute a crime of the first  
31 degree.

32 c. Distribution, manufacture or possession of 20 or more items  
33 containing personal identifying information pertaining to another  
34 person or of items containing personal identifying information  
35 pertaining to five or more separate persons without authorization  
36 shall create an inference that the items were distributed,  
37 manufactured or possessed with knowledge that the actor is  
38 facilitating a fraud or injury to be perpetrated by anyone.

39 d. As used in this section:

40 "Continuing care retirement community" means a residential  
41 facility primarily for retired persons where lodging and nursing,  
42 medical or other health related services at the same or another  
43 location are provided as continuing care to an individual pursuant to  
44 an agreement effective for the life of the individual or for a period  
45 greater than one year, including mutually terminable contracts, and  
46 in consideration of the payment of an entrance fee with or without  
47 other periodic charges.

1 "Distribute" means, but is not limited to, any sale, purchase,  
2 transfer, gift, delivery, or provision to another, regardless of  
3 whether the distribution was for compensation.

4 "Item" means a writing or document, whether issued by a  
5 governmental agency or made by any business or person, recorded  
6 by any method that contains personal identifying information. Item  
7 includes, but is not limited to, an access device, book, check, paper,  
8 card, instrument, or information stored in electronic form by way of  
9 e-mail or otherwise, on any computer, computer storage medium,  
10 computer program, computer software, computer equipment,  
11 computer system or computer network or any part thereof, or by  
12 other mechanical or electronic device such as cellular telephone,  
13 pager or other electronic device capable of storing information.

14 "Nursing home" means a facility providing therein nursing care  
15 to sick, invalid, infirm, disabled or convalescent persons in addition  
16 to lodging and board or health-related service, or any combination  
17 of the foregoing and in addition thereto, providing nursing care and  
18 health-related service, or either of them, to persons who are not  
19 occupants of the facility.

20 "Retirement community" means a retirement community which  
21 is registered with the Division of Housing and Development in the  
22 Department of Community Affairs pursuant to "The Planned Real  
23 Estate Development Full Disclosure Act," P.L.1977, c.419  
24 (C.45:22A-21 et seq.).

25 "Veterans' facility" means any home, institution, hospital, or  
26 part thereof, the admission to which is under the jurisdiction of the  
27 Department of Military and Veterans' Affairs.

28 (cf: P.L.2003, c.184, s. 6)

29  
30 3. This act shall take effect on the first day of the fourth month  
31 following enactment.  
32

### 33 34 STATEMENT

35  
36 This bill would increase the penalties for identity theft in cases  
37 when the victim is a senior citizen or veteran.

38 Under the bill, the penalties would be increased as follows:

- 39 • If the offense only involves one victim, and a senior citizen  
40 or a veteran is deprived of an amount less than \$500, a first  
41 offense would constitute a crime of the third degree, rather  
42 than fourth degree, and a second or subsequent offense  
43 would constitute a crime of the second degree, rather than  
44 third degree;
- 45 • If there are two to five victims or the actor obtains a benefit  
46 of \$500 to \$75,000, and any of the victims is a senior citizen  
47 or a veteran, the offense would constitute a crime of the  
48 second degree, rather than the third degree; and

1       • If there are more than five victims or the actor obtains a  
2       benefit of \$75,000 or more, any of the victims is a senior  
3       citizen or a veteran, the offense would constitute a crime of  
4       the first degree, rather than the second degree.

5       Similarly, for crimes of trafficking in personal identifying  
6       information pertaining to another person, this bill would increase  
7       penalties as follows:

8       • If the offense only involves one piece of information and  
9       that information was obtained through records owned or  
10      maintained by a continuing care retirement community,  
11      nursing home, retirement community, or veterans' facility,  
12      the offense would constitute a crime of the third degree,  
13      rather than the fourth degree;

14      • If the offense involves 20 or more pieces of information and  
15      that information was obtained through records owned or  
16      maintained by a continuing care retirement community,  
17      nursing home, retirement community, or veterans' facility,  
18      the offense would constitute a crime of the second degree,  
19      rather than third degree;

20      • If the offense only involves 50 or more pieces of information  
21      and that information was obtained through records owned or  
22      maintained by a continuing care retirement community,  
23      nursing home, retirement community, or veterans' facility,  
24      the offense would constitute a crime of the first degree,  
25      rather than second degree.

26      A crime in the fourth degree is punishable by up to 18 months  
27      imprisonment, a fine of \$10,000, or both. A crime in the third  
28      degree is punishable by three to five years imprisonment, a fine of  
29      up to \$15,000, or both, and a crime in the second degree is  
30      punishable by five to 10 years imprisonment, a fine of up to  
31      \$150,000, or both. A crime in the first degree is punishable by 10  
32      to 20 years imprisonment, a fine of up to \$200,000, or both.