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IDENTITY THEFT

1997 Wisconsin Act 101, passed by the legislature and signed by Governor Tommy Thompson to take effect on April 28, 1998, makes it a crime to use certain identifying information or identification documentation of another person without permission in order to obtain anything of value.

CRIMINAL PENALTIES AND CIVIL ACTION FOR IDENTITY THEFT

Identity theft is a growing problem due to the availability of personal information in government and commercial computer databases, the increase in the use of credit and debit cards (check cards) and the growth of electronic commerce over the Internet. The most common forms of theft include obtaining new lines of credit in another person's name, accessing a person's existing credit card account or opening new financial accounts in the name of another person. Victims may not be aware of the problem until they are turned down for a loan or notice unauthorized items on their credit card billing. It may take much time, effort and expense to fix a personal credit history or repair a financial reputation.

Act 101 was introduced as 1997 Assembly Bill 724 by Representatives Marlin Schneider, Scott Jensen and 28 others and cosponsored by Senators Joanne Huelsman and Alberta Darling. It created Section 943.201, Wisconsin Statutes, titled "Misappropriation of personal identifying information or personal identification documents." Wisconsin's law is one of the first in the nation to specifically prohibit a person from using or attempting to use personal identifying information or documentation of another to obtain credit, money, goods, services or anything of value without the authorization or consent of the other person. This crime is a Class D felony and conviction may result in a fine of up to \$10,000 or imprisonment for up to five years or both.

In addition to a criminal court charge, the act allows persons victimized by identity fraud to sue the person responsible for the damage or loss. If the suit is successful, the victim may recover up to triple the amount of actual damages, plus all reasonable costs of the investigation and litigation.

TYPES OF INFORMATION DEFINED WITHIN IDENTITY THEFT

Prior to enactment of Act 101, state statutes already provided certain protections for credit and debit cards. It is a crime to acquire without permission or fraudulently use another person's credit card or financial transaction card. Merchants generally are prohibited from recording a customer's address, telephone number or any other identification information as a condition for accepting payment with a credit card. The merchant may request a customer to display a credit card as an indication of financial responsibility or additional identification but cannot record the card number as a condition for accepting a check or share draft payment.

Act 101 covers a variety of documents and information under the category of identity theft. Among these are:

Personal identification documents including birth certificate or a financial transaction card, such as a credit card or debit card.

Personal information including another person's name, address, telephone number, driver's license number, social security number, name of employer or place of employment, employee identification number, mother's maiden name and account numbers at financial institutions.

FOR MORE INFORMATION

For a copy of 1997 Wisconsin Act 101 or the statutes mentioned above, contact the Legislative Reference Bureau at (608) 266-0342. Acts can be downloaded from the legislature's website at <http://www.legis.state.wi.us/billtrack.html>. For questions or complaints regarding personal credit history problems, contact the Department of Financial Institutions at (800) 452-3328 or www.wdfi.org. Local district attorneys handle prosecution for identity theft.