

## No. 2002-62

## AN ACT

## HB 1546

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for identity theft; and providing for the statute of limitations for the civil cause of action for identity theft and for damages in actions for identity theft.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 4120(a), (b), (c) and (f) of Title 18 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding a subsection to read:

§ 4120. Identity theft.

(a) Offense defined.—A person commits the offense of identity theft of another person if he possesses or uses, *through any means*, identifying information of another person without the consent of that other person to further any unlawful purpose.

(b) Separate offenses.—Each time a person possesses or uses identifying information in violation of subsection (a) constitutes a separate offense under this section. *However, the total values involved in offenses under this section committed pursuant to one scheme or course of conduct, whether from the same victim or several victims, may be aggregated in determining the grade of the offense.*

(c) Grading.—The offenses shall be graded as follows:

(1) [A first offense under this section is a misdemeanor of the first degree, and a second or subsequent offense under this section is a felony of the third degree.] *Except as otherwise provided in paragraph (2), an offense under subsection (a) falls within the following classifications depending on the value of any property or services obtained by means of the identifying information:*

(i) *if the total value involved is less than \$2,000, the offense is a misdemeanor of the first degree;*

(ii) *if the total value involved was \$2,000 or more, the offense is a felony of the third degree;*

(iii) *regardless of the total value involved, if the offense is committed in furtherance of a criminal conspiracy as defined in section 903 (relating to criminal conspiracy), the offense is a felony of the third degree; or*

(iv) *regardless of the total value involved, if the offense is a third or subsequent offense under this section, the offense is a felony of the second degree.*

(2) When a person commits an offense under subsection (a) and the victim of the offense is 60 years of age or older *or a care-dependent*

*person as defined in section 2713 (relating to neglect of care-dependent person), the grading of the offense shall be one grade higher than specified in paragraph (1).*

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*(e.1) Venue.—Any offense committed under subsection (a) may be deemed to have been committed at any of the following:*

*(1) The place where a person possessed or used the identifying information of another without the other's consent to further any unlawful purpose.*

*(2) The residence of the person whose identifying information has been lost or stolen or has been used without the person's consent.*

*(3) The business or employment address of the person whose identifying information has been lost or stolen or has been used without the person's consent, if the identifying information at issue is associated with the person's business or employment.*

*(f) Definitions.—As used in this section, the following words and phrases shall have the meanings given to them in this subsection:*

*"Document."* Any writing, including, but not limited to, birth certificate, Social Security card, driver's license, nondriver government-issued identification card, baptismal certificate, access device card, employee identification card, school identification card or other identifying information recorded by any other method, including, but not limited to, information stored on any computer, computer disc, computer printout, computer system, or part thereof, or by any other mechanical or electronic means.

*"Identifying information."* Any document, photographic, pictorial or computer image of another person, or any fact used to establish identity, including, but not limited to, a name, birth date, Social Security number, driver's license number, nondriver governmental identification number, telephone number, checking account number, savings account number, student identification number [or], employee or payroll number *or electronic signature.*

Section 2. Section 5525 of Title 42 is amended to read:

§ 5525. Four year limitation.

*[The] (a) General rule.—Except as provided for in subsection (b), the following actions and proceedings must be commenced within four years:*

*(1) An action upon a contract, under seal or otherwise, for the sale, construction or furnishing of tangible personal property or fixtures.*

*(2) Any action subject to 13 Pa.C.S. § 2725 (relating to statute of limitations in contracts for sale).*

*(3) An action upon an express contract not founded upon an instrument in writing.*

*(4) An action upon a contract implied in law, except an action subject to another limitation specified in this subchapter.*

(5) An action upon a judgment or decree of any court of the United States or of any state.

(6) An action upon any official bond of a public official, officer or employee.

(7) An action upon a negotiable or nonnegotiable bond, note or other similar instrument in writing. Where such an instrument is payable upon demand, the time within which an action on it must be commenced shall be computed from the later of either demand or any payment of principal or of interest on the instrument.

(8) An action upon a contract, obligation or liability founded upon a writing not specified in paragraph (7), under seal or otherwise, except an action subject to another limitation specified in this subchapter.

***(b) Special provisions.—An action subject to section 8315 (relating to damages in actions for identity theft) must be commenced within four years of the date of the offense or four years from the date of the discovery of the identity theft by the plaintiff.***

Section 3. Title 42 is amended by adding a section to read:

**§ 8315. Damages in actions for identity theft.**

***In a civil action based on identity theft as defined in 18 Pa.C.S. § 4120 (relating to identity theft), a court of competent jurisdiction may award damages as follows:***

***(1) Actual damages arising from the incident or \$500, whichever is greater. Damages include loss of money, reputation or property, whether real or personal. The court may, in its discretion, award up to three times the actual damages sustained, but not less than \$500.***

***(2) Reasonable attorney fees and court costs.***

***(3) Additional relief the court deems necessary and proper.***

Section 4. This act shall take effect in 60 days.

APPROVED—The 19th day of June, A.D. 2002.

MARK S. SCHWEIKER