

DISTRICT OF COLUMBIA

Updated September 1, 2008

Current Laws: A person commits the offense of identity theft if that person knowingly uses personal identifying information belonging to or pertaining to another person to obtain, or attempt to obtain, property fraudulently and without that person's consent; or obtains, creates, or possesses personal identifying information belonging to or pertaining to another person with the intent to:

- Use the information to obtain, or attempt to obtain, property fraudulently and without that person's consent; or
- Give, sell, transmit, or transfer the information to a third person to facilitate the use of the information by that third person to obtain, or attempt to obtain, property fraudulently and without that person's consent.

“Personal identifying information” includes, but is not limited to, the following:

- Name, address, telephone number, date of birth, or mother’s maiden name;
- Driver's license or driver's license number, or non-driver's license or non-driver's license number;
- Savings, checking, or other financial account number;
- Social Security number or tax identification number;
- Passport or passport number; citizenship status, visa, or alien registration card or number;
- Birth certificate or a facsimile of a birth certificate;
- Credit or debit card, credit or debit card number, or credit history or credit rating;
- Signature;
- Personal identification number, electronic identification number, password, access code or device, electronic address, electronic identification number, routing information or code, digital signature, or telecommunication identifying information;
- Biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;
- Place of employment, employment history, or employee identification number; and
- Any other numbers or information that can be used to access a person's financial resources, access medical information, obtain identification, act as identification, or obtain property.

If the property obtained or the amount of financial injury is \$250 or more, it is identity theft in the first degree, punishable by up to ten years in prison and/or a fine up to \$10,000, three times the value of the property obtained, or three times the amount of the financial injury, whichever is greatest. If the value is less than \$250, it is identity theft in the second degree, punishable by up to 180 days in jail and/or a fine up to \$1000.

Any person who commits the offense of identity theft against an individual 65 years of age or older may be punished by a fine of up to 1 ½ times the maximum fine and/or term of

imprisonment otherwise authorized for the offense. It is an affirmative defense that the accused reasonably believed that the victim was not 65 years of age or older at the time of the offense or could not have determined the age of the victim because of the manner in which the offense was committed.

Statute: §22-3277: http://occ.dc.gov/occ/lib/occ/web-identity_theft.pdf

Jurisdiction: The offense of identity theft is deemed to be committed in the District of Columbia, regardless of whether the offender is physically present in the District, if the person whose personal identifying information is improperly obtained, created, possessed, or used is a resident of the District, or any part of the offense takes place in the District.

Statute: §22-3277: http://occ.dc.gov/occ/lib/occ/web-identity_theft.pdf

Payment Cards: A person commits the offense of credit card fraud, if with intent to defraud, that person obtains property of another by:

- Knowingly using a credit card, or the number or description thereof, which has been issued to another person without the consent of the person to whom it was issued;
- Knowingly using a credit card, or the number or description thereof, which has been revoked or cancelled;
- Knowingly using a falsified, mutilated, or altered credit card or number or description thereof; or
- Representing that he or she is the holder of a credit card and the credit card had not in fact been issued.

For the purpose of this section, the term “credit card” means an instrument or device, whether known as a credit card plate, debit card, or by any other name, issued by a person for use of the cardholder in obtaining property or services.

Any person convicted of credit card fraud will be imprisoned for up to ten years and/or fined up to \$5000, if the value of the property obtained is \$250 or more. If the value is less than \$250, the offense is punishable by up to 180 days in prison and/or a fine up to \$1000.

Statute: §22-3223:

http://weblinks.westlaw.com/Find/Default.wl?DB=DC%2DST%2DTC%3BSTADCTOC&DocName=DCCODES22%2D3223&FindType=W&AP=&fn=_top&rs=WEBL7.06&vr=2.0&spa=DC-1000&trailtype=26

Victim Assistance:

Mandatory Police Reports: The Metropolitan Police Department is required to make a report of each complaint of identity theft and provide the complainant with a copy of the report.

Statute: §22-3277: http://occ.dc.gov/occ/lib/occ/web-identity_theft.pdf

Restitution: When a person is convicted of identity theft, the court may, in addition to any other applicable penalty, order restitution for the full amount of financial injury. This includes all monetary costs, debts, or obligations incurred by a person as a result of another person obtaining, creating, possessing, or using that person’s personal identifying information in violation of this subtitle, including, but not limited to: the costs of clearing the person’s credit rating, credit

history, criminal record, or any other official record, including attorney fees; the expenses related to any civil or administrative proceeding to satisfy or contest a debt, lien, judgment, or other obligation of the person that arose as a result of the violation of this subtitle, including attorney fees; the costs of repairing or replacing damaged or stolen property; and lost time or wages, or any similar monetary benefit forgone while the person is seeking redress for damages.

Statute: §22-3277: http://occ.dc.gov/occ/lib/occ/web-identity_theft.pdf

Court Orders: When a person is convicted, adjudicated delinquent, or found not guilty by reason of insanity of identity theft, the court may issue such orders as are necessary to correct any District of Columbia public record that contains false information as a result of a violation of the offense. In all other cases, a person who alleges that he or she is a victim of identity theft may petition the court for an expedited judicial determination that a District of Columbia public record contains false information as a result of a violation of this subchapter. Upon a finding of clear and convincing evidence that the person was a victim of identity theft, the court may issue such orders as are necessary to correct any District of Columbia public record that contains false information as a result of a violation of this offense

Statute: §22-3277: http://occ.dc.gov/occ/lib/occ/web-identity_theft.pdf

Security Freezes: All District of Columbia consumers are allowed to place security freezes on their consumer credit reports to prevent new accounts from being opened in their names. Such a freeze enables the consumer to prevent anyone from looking at his/her credit file for the purpose of granting credit unless the consumer chooses to allow a particular business look at the information. To request a freeze, a consumer must request one in writing by certified mail. By January 31, 2009, the credit reporting agencies must make available an Internet-based method of requesting a security freeze and also accept requests by regular mail or telephone. Consumer reporting agencies may charge a fee of \$10 to place the original security freeze. However, victims of identity theft with a valid police report or investigative complaint may not be charged.

The reporting agency must place the freeze within three business days after receiving the request, and within five days of placing the request, must send a written confirmation of the freeze and provide the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of his credit for a specific party or period of time. Requests for a temporary unlocking of the freeze must be completed within three business days. Consumer reporting agencies must also develop the capacity and offer the option to the consumer of honoring a request for a temporary unlocking of the freeze through Internet and telephonic methods, within 15 minutes after the consumer's request is received by the agency.

Statute: §28-3862:

http://weblinks.westlaw.com/Find/Default.wl?DB=DC%2DST%2DTOC%3BSTADCTOC&DocName=DCCODES28%2D3862&FindType=W&AP=&fn=_top&rs=WEBL7.07&vr=2.0&spa=dcc-1000&trailtype=26

How To Place a Security Freeze in Washington DC:

www.consumersunion.org/pdf/security/securityDC.pdf

Security Breach: District law requires individuals and entities doing business in the district, which own or license computerized or other electronic data that includes personal information, to notify residents if a breach of security has compromised their personal information. A security breach is defined as “unauthorized acquisition of computerized or other electronic data, or any equipment or device storing such data, that compromises the security, confidentiality, or integrity of personal information.” Notice must be made without unreasonable delay, consistent with the legitimate needs of law enforcement and with any measures necessary to determine the scope of the breach and to restore the reasonable integrity of the data system.

Personal information is defined as an individual’s first name or first initial and last name, or phone number or address, and any one or more of the following data elements: Social Security number; driver’s license number or District of Columbia Identification Card number; credit or debit card number, or any other number or code or combination of numbers or codes, such as account number, security code, access code, or password, that allows access to an individual’s financial or credit account. It does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

Notification can be provided by mail or e-mail. If the cost of providing regular notice would exceed \$50,000, the amount of people to be notified exceeds 100,000, or the business does not have sufficient contact information to provide written or electronic notice, substitute notice may be provided. When substitute notice is used, it must consist of all of the following, as applicable: e-mail notice, conspicuous posting on the business’s web site, and notification to major local, and if applicable, national media. When a breach involves more than 1,000 people, the business must also notify the consumer reporting agencies.

Statute: §28-3852:

http://weblinks.westlaw.com/Find/Default.wl?DB=DC%2DST%2DTOC%3BSTADCTOC&DocName=DCCODES28%2D3852&FindType=W&AP=&fn=_top&rs=WEBL7.07&vr=2.0&spa=dcc-1000&trailtype=26

City Resources:

Metropolitan Police Department, “Identity Theft”
(<http://mpdc.dc.gov/mpdc/cwp/view,a,1237,Q,543161,mpdcNav,|.asp>)

“Protecting Your Private Information”
(<http://mpdc.dc.gov/mpdc/cwp/view,a,1237,q,543182.asp>)

“Examples of Identity Theft” (<http://mpdc.dc.gov/mpdc/cwp/view,a,1237,q,543168.asp>)

“Reporting Identity Theft to the Police”
(http://mpdc.dc.gov/mpdc/cwp/view,a,1237,q,543196,mpdcNav_GID,1523,mpdcNav,%7C31417%7C.asp)

“If you are the victim of identity theft in the District of Columbia, the MPDC asks that you complete the Identity Crime Incident Detail Form. Although the form is 11 pages in length, you will find that not all questions apply to your situation. Fill in only the parts that apply to you and

*then contact the Financial Crimes and Fraud Unit of the MPDC and make an appointment to meet with one of our detectives. Victims from other jurisdictions or those individuals wishing to gather their financial data in an orderly fashion will find this form to be helpful. In dealing with the authorities and financial institutions, **keep a log** of all conversations, including dates, times, names and phone numbers. Note the time spent and any expenses incurred. Confirm conversations in writing. Send correspondence by certified mail (return receipt requested). Keep copies of all letters and documents.”*

“Who Do I Notify if I'm a Victim of Identity Theft?”

(<http://mpdc.dc.gov/mpdc/cwp/view,a,1237,q,543175.asp>)

This document directs victims to: “Report the crime to the law enforcement agency with jurisdiction in your case. If you are a resident of the District of Columbia, contact the Financial Crimes and Fraud Unit for an appointment. You may want to complete the Identity Crime Incident Detail Form before you contact the police. This form will help you collect all the information that will be useful to the department if an investigation is necessary. The form may be completed on your computer, but, for security purposes, none of the information will be submitted electronically. Instead, please print out two copies of the completed form—one for the police and one for your personal file. After you file your police report, be sure to get a file for your personal record. Keep the police report number handy and give it to creditors and others who require verification of your case. Credit card companies and banks may require you to produce the report to verify the crime.”

“Identity Theft Incident Detail Form”

(http://mpdc.dc.gov/mpdc/frames.asp?doc=/mpdc/lib/mpdc/info/consumer/pdf/id_crime_incident_detail_form_fill.pdf)

“Resources for Dealing with Identity Theft”

(<http://mpdc.dc.gov/mpdc/cwp/view,a,1237,q,543189.asp>)

Office of the Attorney General, “Identity Theft”

(<http://occ.dc.gov/occ/cwp/view,a,1223,q,635085.asp>)

“Protecting Yourself From Identity Theft”

(http://occ.dc.gov/occ/frames.asp?doc=/occ/lib/occ/id_theft_tips.pdf)

Legislation:

2006:

B16-0811 gives all District residents the right to put a security freeze on their credit files to prevent identity thieves from opening new credit accounts in their names. A security freeze enables a consumer to prevent anyone from looking at his or her own credit reporting file for purposes of granting credit unless the consumer chooses to let that particular business look at the information. This gives consumers control over who has access to their information needed to process a credit application and effectively prevents others from opening new accounts in their

name. When the consumer is applying for credit, the security freeze can be lifted temporarily so the application can be processed.

B16-0810 requires individuals and entities doing business in the District who maintains personal information in a computerized data system to disclose a breach in the security of the data to any resident whose personal information has been compromised.

2003:

B15-36 creates the crime of identity theft, defined as knowingly using personal identifying information belonging to or pertaining to another person to obtain, or attempting to obtain, property fraudulently and without that person's consent; or obtaining, creating, or possessing personal identifying information belonging to or pertaining to another person with the intent to:

- Use the information to obtain, or attempt to obtain, property fraudulently and without that person's consent; or
- Give, sell, transmit, or transfer the information to a third person to facilitate the use of the information by that third person to obtain, or attempt to obtain, property fraudulently and without that person's consent.

If the property obtained or the amount of financial injury is \$250 or more, it is identity theft in the first degree, which is punishable by up to ten years in prison and/or a fine up \$10,000, three times the value of the property obtained, or three times the amount of the financial injury, whichever is greatest. If the value of the property obtained or the amount of financial injury is less than \$250, it is identity theft in the second degree, punishable by up to 180 days in jail and/or a fine up to \$1000. There is an enhanced penalty for crimes against victims 65 and older.

The bill also provides for restitution to victims; allows crimes to be prosecuted in the District if either the victim lives in the District or any part of the offense takes place there; and requires the police department to take and provide the victim with a copy of the police report.