

**KENTUCKY**

IDENTITY THEFT RANKING BY STATE: Rank 42, 43.3 Complaints Per 100,000  
Population, 1836 Complaints (2007)  
Updated December 15, 2008

**Current Laws:** A person is guilty of the theft of the identity of another when he knowingly possesses or uses any current or former identifying information of another person with the intent to represent that he is the other person for the purpose of depriving the other person of property; obtaining benefits or property to which he would not otherwise be entitled; making financial or credit transactions using the other person's identity; avoiding detection; or any commercial or political benefit.

Protected identifying information includes a person's name, address, telephone number, e-mail address, Social Security number, driver's license number, birth date, personal identification number or code, or any other information that could be used to identify the person, including unique biometric data.

Theft of identity is a class D felony, punishable by one to five years in prison, and/or a fine of \$1000 to \$10,000 or double the gain from commission of the offense, whatever is greater. In addition, a person found guilty will forfeit any lawful claim to the identifying information, property, or other realized benefit of the other person as a result of such violation.

This law does not apply when a person obtains the identity of another to misrepresent his age for the purpose of obtaining alcoholic beverages, tobacco, or another privilege denied to minors.

Statute: §514.160: <http://www.lrc.ky.gov/KRS/514-00/160.PDF>

A person is guilty of trafficking in stolen identities, a Class C felony, when he manufactures, sells, transfers, or purchases, or possesses with the intent to manufacture, sell, transfer, or purchase the personal identity of another person or persons. Possession of five or more separate identities is prima facie evidence that the identities are possessed for the purpose of trafficking. A class C felony is punishable by five to ten years in prison, and/or a fine of \$1000 to \$10,000 or double the gain from commission of the offense, whatever is greater.

Statute: §514.170: <http://www.lrc.ky.gov/KRS/514-00/170.PDF>

**Jurisdiction:** The jurisdiction for theft of identity or trafficking in stolen identities is either the county where the offense was committed or the county where the victim resides.

Statute: §514.160: <http://www.lrc.ky.gov/KRS/514-00/160.PDF>

**Payment Cards:** A person who makes any false statement in writing, respecting his identity, for the purpose of procuring the issuance of a credit or debit card is guilty of a Class D felony.  
Statute: §434.570: <http://www.lrc.ky.gov/KRS/434-00/570.PDF>

It is also a Class D felony for:

- A person other than the issuer to sell a credit or debit card or for a person to buy a credit or debit card from a person other than the issuer.  
Statute: §434.600: <http://www.lrc.ky.gov/KRS/434-00/600.PDF>
- A person, other than the issuer, who receives a credit or debit card that he knows was obtained fraudulently.  
Statute: §434.620: <http://www.lrc.ky.gov/KRS/434-00/620.PDF>

It is a Class A misdemeanor, punishable by up to twelve months in prison and/or a \$500 fine, to take a credit or debit card from the person, possession, custody or control of another without the consent of the cardholder or of the issuer, or who, with knowledge that it has been so taken, receives the credit or debit card with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder.

Statute: §434.580: <http://www.lrc.ky.gov/KRS/434-00/580.PDF>

**Financial Privacy:** State law makes it a class D felony for a person to obtain, or attempt to obtain, financial information such as account numbers, passwords, or transactional information from a financial information repository (any person engaged in the business of providing services to customers who have a credit, deposit, trust, stock or other financial account or relationship with the person) by knowingly:

- Making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial information repository with the intent to deceive them into relying on that statement to release financial information.
- Making a false, fictitious, or fraudulent statement to a customer of a financial information repository to deceive him into releasing financial information or authorizing its release.
- Providing any document to an officer, employee, or agent of a financial information repository, knowing it is forged, counterfeit, stolen, or otherwise fraudulently obtained, in order to deceive the person into releasing financial information.

Statute: §434.872: <http://www.lrc.ky.gov/KRS/434-00/872.PDF>

A person is guilty of trafficking in financial information, a class C felony, when he manufactures, sells, transfers, purchases, or possesses with the intent to manufacture, sell, transfer, or purchase financial information for the purpose of committing a crime.

Statute: §434.874: <http://www.lrc.ky.gov/KRS/434-00/874.PDF>

**Scanning Devices:** State law prohibits the use of a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant. It is prohibits using a reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card with the intent to defraud the authorized user, the issuer of the

authorized user's payment card, or a merchant. Violations are a class D felony for the first offense and a Class C felony for each subsequent offense.

Statute: §434.675: <http://www.lrc.ky.gov/KRS/434-00/675.PDF>

### **Victim Assistance:**

**Restitution:** A person found guilty of violating identity theft or financial privacy laws will be ordered to make financial restitution for any financial loss sustained by the victim as a result of the violation. This includes any costs incurred by the victim in correcting his credit history or any costs incurred in connection with any civil or administrative proceeding to satisfy any debt or other obligation of such victim, including lost wages and attorney's fees. A judge may also order that restitution be paid to a financial institution, insurance company, or bonding association that suffers direct financial loss as a result of the violation.

Statute: §532.034: <http://www.lrc.ky.gov/KRS/532-00/034.PDF>

**Civil Suits:** State law allows victims of identity theft crimes to pursue a civil suit against the violator for compensatory and punitive damages, and if successful, reasonable costs and attorneys' fees. The statute of limitation for such case is five years from the date of the discovery of the violation.

Statute: §411.210: <http://www.lrc.ky.gov/KRS/411-00/210.PDF>

**Credit Freeze:** State law allows all consumers to place security freezes on their consumer credit reports to prevent identity thieves from opening new accounts 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 to the credit reporting agencies. There is a \$10 fee for the placing, temporary unlocking, and removing of the freeze, but identity theft victims who provide a police report will not be charged. Security freezes may remain in place for up to seven years.

The reporting agency must place the freeze within ten business days after receiving the request, and within ten days of placing the freeze 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.

Statute: §367.365: <http://www.lrc.ky.gov/KRS/367-00/365.PDF>

“Security Freeze Information” (<http://ag.ky.gov/civil/consumerprotection/securityfreeze/>)

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### **State Resources:**

Office of the Attorney General, “Identity Theft: Don’t Get Played”  
(<http://ag.ky.gov/civil/consumerprotection/idtheft/>)

“Tips for Victims” (<http://ag.ky.gov/civil/consumerprotection/idtheft/tips.htm>)

This document directs victims to: *“Get a copy of the police report and retain for your records. Credit card companies and financial institutions may require you to show a copy of this report to verify the crime. Keep the phone number of your investigator and provide it to creditors and others who require verification of your case.”*

“ID Theft Victim Kit” ([http://ag.ky.gov/NR/rdonlyres/BB174056-7E04-4437-BF7E-DAB4ACDAB7CF/0/idtheft\\_kit.pdf](http://ag.ky.gov/NR/rdonlyres/BB174056-7E04-4437-BF7E-DAB4ACDAB7CF/0/idtheft_kit.pdf))

*“A person who believes they are a victim of identity theft is encouraged to promptly report those facts to a law enforcement agency. You should report to the law enforcement agency that has jurisdiction both where the crime occurred and where you live. The address and telephone number for the Commonwealth’s Attorney, County Attorney, and the local police department can be found in your local telephone directory. Once a report has been filed, request a copy of the report so that it will be available to send to credit reporting agencies and creditors. When you file the report, provide as much documentation as possible, including copies of debt collection letters, credit reports, and your notarized ID Theft Affidavit (located at the back of this kit). Identity theft is a Class D Felony under KRS 514.160. Theft related to credit or debit cards is a Class A Misdemeanor or Class D Felony under KRS 434.550 – 434.730.”*

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## **Legislation:**

### **2006:**

**HB 54** allows consumers to place a credit freeze on their files at the three national credit reporting agencies for \$10 or at no charge if are a victim of identity theft with a police report. The freeze would prevent a thief from getting a copy of the victim's credit report, which is usually necessary to open new accounts.

### **2004:**

**HB 7** protects consumers from having their credit or ATM card information unwittingly taken from them. It prohibits the unauthorized use of scanning devices or re-encoders to access or scan the encoded information on any ATM, debit, credit or other payment card. It also makes it a felony to use a re-encoder to place the information encoded on the magnetic strip onto a different card without permission. A re-encoder is a device that places encoded information from the magnetic strip of a payment card onto the magnetic strip or stripe of a different payment card.

### **2002:**

**HB 79** makes it a felony to fraudulently obtain financial information, such as account numbers, transactional information, or passwords, from a bank or other financial institution. The bill also clarifies and expands the state’s identity theft statute to include a person’s address, telephone number, e-mail address, driver’s license number, or any other information which could be used to identify the person, including unique biometric data.