

MONTANA

IDENTITY THEFT RANKING BY STATE: Rank 44, 40.8 Complaints Per 100,000

Population, 391 Complaints (2007)

Updated July 5, 2008

Current Laws: A person commits the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person.

Personal identifying information includes but is not limited to the name, date of birth, address, telephone number, driver's license number, Social Security number or other federal government identification number, place of employment, employee identification number, mother's maiden name, financial institution account number, credit card number, or similar identifying information relating to a person.

A person convicted of the offense of theft of identity if no economic benefit was gained or was attempted to be gained or if an economic benefit of less than \$1,000 was gained or attempted to be gained will be imprisoned in the county jail for up to six months and fined up to \$1000. If an economic benefit of \$1,000 or more was gained or attempted to be gained, the punishment is up to ten years in a state prison and/or a fine up to \$10,000.

Statute: §45-6-332: <http://data.opi.state.mt.us/bills/mca/45/6/45-6-332.htm>

Payment Cards: A person is guilty of the offense of deceptive practices when the person purposely or knowingly:

- Makes or directs another to make a false or deceptive statement to any person respecting the financial condition of the person making or directing another to make the statement for the purpose of procuring a loan or credit or accepts a false or deceptive statement from any person who is attempting to procure a loan or credit regarding that person's financial condition; or
- Obtains or attempts to obtain property, labor, or services by any of the following means: using a credit card that was issued to another without the other's consent; using a credit card that has been revoked or canceled; using a credit card that has been falsely made, counterfeited, or altered in any material respect; using the pretended number or description of a fictitious credit card; or using a credit card that has expired when the credit card clearly indicates the expiration date.

Violations are punishable by up to six months in the county jail and/or a fine up to \$1000. If the deceptive practices are part of a common scheme or the value of any property, labor, or services obtained or attempted to be obtained exceeds \$1,000, the offender can be fined up to \$50,000 and/or be imprisoned in the state prison for up to 10 years.

Statute: §45-6-317: <http://data.opi.state.mt.us/bills/mca/45/6/45-6-317.htm>

Change of Address: State law requires a credit card issuer that mails an offer or solicitation to receive a credit card and, in response, receives a completed application that lists an address that is different from the address on the offer to verify the change of address by contacting the person to whom the solicitation was mailed. Issuers must also verify changes of address if they receive a written or oral request for a change of address and then receive a request for an additional card within ten days.

Statute: §30-14-1721: <http://data.opi.state.mt.us/bills/mca/30/14/30-14-1721.htm>

Disposal of Records: State law restricts how businesses can dispose of records that contain the personal information of customers. It requires that records be shredded, erased, or otherwise modified so that the personal information in the records is unreadable or undecipherable.

Statute: §30-14-1703: <http://data.opi.state.mt.us/bills/mca/30/14/30-14-1703.htm>

Victim Assistance:

Restitution: If the court orders that restitution be made to the victim, it may include, as part of its determination of an amount owed, payment for any costs incurred by the victim, including attorney fees and any costs incurred in clearing the credit history or credit rating of the victim or in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.

Statute: §45-6-332: <http://data.opi.state.mt.us/bills/mca/45/6/45-6-332.htm>

Identity Theft Passport: Victims may apply for an identity theft passport, which can be presented to law enforcement to help prevent arrest or detention for an offense committed by another person. It may also be presented to a creditor to aid in the investigation of a fraudulent accounts or charges. Law enforcement agencies and creditors have discretion in accepting an identity theft passport. The passport simply indicates that the agency or company should take into consideration that the individual is a victim of identity theft. However, it should be treated as the equivalent to a police report or investigative report when such a document is required as proof that the holder is a victim of identity theft.

To qualify for a passport, identity theft victims must file a police report with a Montana law enforcement agency and present a completed Identity Theft Passport application with a photo ID to the investigating agency. Once the complaint has been verified by law enforcement, the agency faxes or mails to Montana's Office of Consumer Protection and Victim Services a copy of the completed investigation report; the Identity Theft Passport application, signed by the victim and the officer; and a copy of the victim's driver license or other official form of photo identification. Once the victim and law enforcement have provided all of the necessary information, the passport should be issued within 10 working days. Passports expire after three years.

Statute: §46-24-220: <http://data.opi.mt.gov/bills/mca/46/24/46-24-220.htm>

Identity Theft Passport Application:

<http://www.doj.mt.gov/consumer/consumer/forms/identitytheftpassportapplication.pdf>

“Identity Theft Passport Program”

(<http://www.doj.mt.gov/consumer/consumer/identitytheft.asp#identitytheftpassport>)

Credit Blocking: A consumer reporting agency must block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft.

Statute: §31-3-115: <http://data.opi.state.mt.us/bills/mca/31/3/31-3-115.htm>

Security Breach: State law requires businesses operating in the state that own or license computerized data that include consumers’ personal information to notify consumers when their personal information is compromised during a security breach, putting them at risk of identity theft. A security breach is defined as the “unauthorized acquisition of computerized data that materially compromises the security, confidentiality, or integrity of personal information maintained by the person or business and causes or is reasonably believed to cause loss or injury to a Montana resident.”

Personal information means an individual’s first name or first initial and his/her last name, in combination with any one or more of the following data elements when either the name or the data elements are not encrypted: Social Security number; driver’s license or Montana identification card number; account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual’s financial account. Publicly available information is not included.

Notification must be made without unreasonable delay, consistent with the legitimate needs of law enforcement. The notice may be provided by mail, telephone, or e-mail. If the cost of providing regular notice would exceed \$250,000, the amount of people to be notified exceeds 500,000, or the business does not have sufficient contact information, it may make substitute notice, which must consist of the following as applicable: e-mail notice, conspicuous posting of the notice on its website, and notification to applicable local or statewide media.

Statute: §30-14-1704: <http://data.opi.state.mt.us/bills/mca/30/14/30-14-1704.htm>

Security Freeze: All Montana consumers are allowed to place security freezes on their consumer credit reports to prevent others 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, an identity theft victim must request one in writing by certified or overnight mail to the credit reporting agencies. By January 31, 2009, the consumer reporting agencies must make available to consumers a secure electronic method for requesting the freeze. Credit reporting agencies may charge \$3 for each security freeze, removal of a security freeze, or temporary lifting of a freeze for a period of time. However, victims of identity theft with a valid police report may not be charged.

The reporting agency must place the freeze within five business days after receiving the request, unless the freeze is requested by a consumer who has been the victim of identity theft, in which case the freeze must be placed within 24 hours after receiving notice and a valid police report, investigative report, or complaint that the consumer has filed with a law enforcement agency.

Within five days of placing the freeze, the agency 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. Starting January 31, 2009, however, temporary unlocking must be completed within 15 minutes after the consumer's request is received through an electronic contact method or by telephone, during normal business hours.

Statute: §30-14-1726 through 1736: (must scroll through using "next section" button)

<http://data.opi.mt.gov/bills/mca/30/14/30-14-1726.htm>

Security Freeze: <http://www.doj.mt.gov/consumer/consumer/securityfreeze.asp>

State Resources:

Office of the Attorney General, "Identity Theft"

(<http://www.doj.mt.gov/consumer/consumer/identitytheft.asp>)

"Ten Steps to Recover from Identity Theft"

(<http://www.doj.mt.gov/consumer/consumer/forms/tenstepsrecover.pdf>)

This document directs victims to: "**Report the theft of your identity to your local law enforcement agency.** Ask for a copy of the police report, and to have your case entered into the NCIC Identity Theft File. 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."

"How to Protect Your Personal Information"

(<http://www.doj.mt.gov/consumer/consumer/identitytheft.asp#protectpersonalinformation>)

"Sample Dispute Letters"

- Credit Bureau: A sample letter used by ID theft victims to inform a credit bureau that they did not make disputed charges and request that the items be blocked to correct their credit reports:

<http://www.doj.mt.gov/consumer/consumer/forms/sampledisputelettercreditbureau.pdf>

- Existing Credit Account: A sample letter used by ID theft victims to inform a creditor that they did not make the disputed charge or debit, and demand that the creditor notify all three credit bureaus of the problem:

<http://www.doj.mt.gov/consumer/consumer/forms/sampledisputelettercreditaccount.pdf>

"Security Freeze" (<http://www.doj.mt.gov/consumer/consumer/securityfreeze.asp>)

"Protecting Customer Information"

(<http://www.doj.mt.gov/consumer/business/protectingcustomerinformation.asp>)

Legislation:

2007:

SB 116 allows 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.

2005:

HB 110 allows victims to apply for an identity theft passport, which can be presented to law enforcement to help prevent arrest or detention for an offense committed by another person. It may also be presented to a creditor to aid in the investigation of a fraudulent accounts or charges. Law enforcement agencies and creditors have discretion in accepting an identity theft passport. The passport simply indicates that the agency or company should take into consideration that the individual is a victim of identity theft. To qualify for a passport, identity theft victims must file a police report with a Montana law enforcement agency and present a completed Identity Theft Passport application with a photo ID to the investigating agency.

HB 732 requires that consumers be notified of a breach in security, confidentiality, or integrity of computerized personal information held by a person or business if the breach causes or is reasonably believed to have caused loss or injury to a Montana resident. The bill also:

- Requires consumer reporting agencies to block the reporting of any information in the file of a consumer that he/she identifies as information that resulted from an alleged identity theft.
- Restricts how businesses can dispose of records that contain the personal information of customers. It requires that records be shredded, erased, or otherwise modified so that the personal information in the records is unreadable or undecipherable.
- Requires a credit card issuer that mails an offer or solicitation to receive a credit card and, in response, receives a completed application that lists an address that is different from the address on the offer to verify the change of address by contacting the person to whom the solicitation was mailed. Issuers must also verify changes of address if they receive a written or oral request for a change of address and then receives a request for an additional card within ten days.

2001:

HB 331 creates the offense of theft of identity if the person purposely or knowingly obtains personal identifying information of another person and uses that information for any unlawful purpose, including to obtain or attempt to obtain credit, goods, services, financial information, or medical information in the name of the other person without the consent of the other person.