

NEW JERSEY

IDENTITY THEFT RANKING BY STATE: Rank 12, 79.0 Complaints Per 100,000

Population, 6864 Complaints (2007)

Updated January 25, 2009

Current Laws: In New Jersey, identity theft is covered under the wrongful impersonation statute. A person is guilty of the offense if he:

- Impersonates another or assumes a false identity and acts in such assumed identity for the purpose of obtaining a benefit for himself or another or to injure or defraud another;
- Impersonates another, assumes a false identity, or makes a false or misleading statement regarding the identity of any person, in an oral or written application for services or for the purpose of obtaining services; or
- Obtains any personal identifying information pertaining to another person and uses that information, or assists another person in using the information, to assume the identity of or represent himself as another person, without that person's authorization and with the purpose to fraudulently obtain or attempt to obtain a benefit or services, or avoid the payment of debt or other legal obligation or avoid prosecution for a crime by using the name of the other person.

If the violator obtains a benefit less than \$500, and the offense involves the identity of one victim, it is a fourth degree crime, punishable by up to 18 months in prison and/or a fine up to \$10,000. Second or subsequent offenses are a third degree crime, punishable by three to five years in prison and/or a fine up to \$15,000. If the value is between \$500 and \$75,000, or the offense involves the identity of at least two but less than five victims, it is a third degree crime. If the value is above \$75,000, or the offense involves the identity of five or more victims, it is a second degree crime, punishable by five to ten years in prison and/or a fine up to \$150,000.

This offense does not include cases where the person uses the personal identifying information of another to misrepresent his age for the purpose of obtaining tobacco or alcohol.

Statute: §2C:21-17: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302198&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17F5}&softpage=Doc_Frame_PG42

It is a fourth degree crime to knowingly distribute, manufacture, or possess any item containing personal identifying information of another person, without his/her authorization, and with knowledge that the actor is facilitating a fraud or injury to be perpetrated by anyone. If the person distributes, manufactures, or possesses 20 or more items containing personal identifying information pertaining to another person, or five or more items containing the personal identifying information pertaining to five or more separate people, it is a third degree crime. It is a second degree crime if the person distributes, manufactures, or possesses 50 or more items containing the information of another person, or ten or more items containing the information of five or more separate people.

Statute: §2C:21-17.3: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302198&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17FB}&softpage=Doc_Frame_PG42

It is a second degree crime to use a fraudulent identity document, such as a driver's license, birth certificate, or other government-issued document, or the identity documents of another person to obtain a government-issued document used to verify identity or other identifying information.

Statute: §2C:21-17.2: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302198&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17F9}&softpage=Doc_Frame_PG42

False Government Documents: It is a second degree crime to sell, offer to sell, or possess with the intent to sell a document that falsely purports to be a driver's license, birth certificate or other document issued by a governmental agency and which could be used as a means of verifying a person's identity or age or any other personal identifying information. It is also a second degree crime to knowingly make or possess devices or materials to make such false government documents. It is a third degree crime to knowingly exhibit a false government document, and a fourth-degree crime to possess such a false document.

Statute: §2C:21-2.1: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302198&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17B7}&softpage=Doc_Frame_PG42

Payment Cards: It is a fourth degree crime to make or cause to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting a person's identity or that of any other person, firm or corporation, or his/her financial condition or that of any other person, firm or corporation, for the purpose of procuring the issuance of a credit card.

A person is guilty of credit card theft, a fourth degree crime, if he takes or obtains a credit card from the person, possession, custody or control of another without the cardholder's consent or who, with knowledge that it has been so taken, receives the credit card with intent to use, sell, or transfer it to a person other than the issuer or the cardholder. A person who has in his possession or under his control credit cards issued in the names of two or more other persons or two or more stolen credit cards is presumed to have committed credit card theft.

It is also a fourth degree crime for any person to:

- Receive a credit card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use, sell, or transfer it to a person other than the issuer or the cardholder;
- Other than the issuer, sell a credit card or buy a credit card from a person other than the issuer;
- Other than the cardholder or a person authorized by him who, with intent to defraud the issuer, or a person or organization providing money, goods, services or anything else of value, or any other person, sign a credit card. A person who possesses two or more credit cards which are so signed is presumed to have violated this paragraph; or
- Receive anything of value knowing or believing that it was obtained by credit card theft.

It is a third-degree crime for a person to, with intent to defraud the issuer, a person or organization providing money, goods, services, or anything else of value, or any other person:

- Use a credit card to obtain money, goods, services, or anything else of value that was obtained or retained fraudulently or one that he knows is forged, expired, or revoked,
- Obtain money, goods, services, or anything else of value by representing without the consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued;
- Use any counterfeit, fictitious, altered, forged, lost, stolen or fraudulently obtained credit card to obtain money, goods or services, or anything else of value; or
- With unlawful or fraudulent intent, furnishes, acquires, or uses any actual or fictitious credit card, whether alone or together with names of credit cardholders, or other information pertaining to a credit card account in any form.

Statute: §2C:21-6: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302198&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17D5}&softpage=Doc_Frame_PG42

Scanning Devices: State law prohibits the unauthorized use of scanning devices to access or scan the encoded information on any ATM, debit, credit or other payment card. It is also a crime to use a re-encoder to place the information encoded on the magnetic strip onto a different card without permission. It is a third degree crime for a person, with the intent to defraud an authorized user of a payment card, the issuer of the authorized user's payment card or a merchant, to use a scanning device or re-encoder. It is a fourth degree crime for a person to knowingly possess such devices with intent to commit the above violation.

Statute: §2C:21-6.1: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302198&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17D7}&softpage=Doc_Frame_PG42

Disposal of Records: To prevent identity theft, state law restricts how businesses can dispose of paper records with personal identifying information about individuals. The law requires businesses and state or local government agencies to destroy, or arrange for the destruction of, a customer's records within its custody or control containing personal information, which is no longer to be retained by the business or public entity, by shredding, erasing, or otherwise modifying the personal information in the records to make them unreadable, undecipherable, or nonreconstructable. Violations are punishable by a civil penalty not to exceed \$3,000 for each violation, injunctive relief and actual damages, costs and reasonable attorney's fees.

The law defines personal identifying information as an individual's first name or initial and last name linked with any of the following data elements: Social Security number; driver's license number or state identification card number; or 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.

Statute: §C.56:8-162: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302315&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17B94}&softpage=Doc_Frame_PG42

Social Security Numbers: State law places limits on the use and dissemination of Social Security numbers (SSNs). The law prohibits the intentional communication of an individual's SSN, or any four or more consecutive numbers of the SSN, to the general public, and restricts the ability of businesses to print SSNs on a mailing or on any card or tag required to access products, or services, unless state or federal law requires it. It also prohibits requiring an individual to transmit his SSN over the Internet unless the connection with the Internet is secure or the number is encrypted. The law also prohibits requiring an individual's SSN for access to an Internet website, unless a password or unique personal identification number or other authentication device is also required for access.

Unauthorized use of a Social Security number is punishable by a \$3,000 fine for a negligent violation, and a \$5,000 fine or up to 15 days imprisonment, or both, for knowingly violating this section. An aggrieved individual may recover actual damages or \$5,000, whichever is greater, plus reasonable attorney's fees and court costs.

Statute: §56-8-164: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302315&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17B98}&softpage=Doc_Frame_PG42

Victim Assistance:

Mandatory Police Reports: Under state law, a person who reasonably believes or suspects that he has been the victim of identity theft may contact the local law enforcement agency in the jurisdiction where he resides. Even if the jurisdiction lies elsewhere for investigation and prosecution, the agency must take the complaint and provide the complainant with a copy of the complaint, and may refer the complaint to a law enforcement in a different jurisdiction. A complaint filed under this section is not required to be counted as an open case for purposes such as compiling open case statistics.

Statute: §2C:21-17.6: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302198&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={1801}&softpage=Doc_Frame_PG42

Restitution: Judges can order defendants convicted of identity crimes to pay restitution to the victim for costs incurred in clearing his/her credit history or rating, 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: §2C:21:17.1: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302198&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17F7}&softpage=Doc_Frame_PG42

Civil Suits: Victims have the right to recover damages in a civil suit. A court may award a victim of identity theft who suffers any loss of money or property, real or personal, as a result of the use of his/her personal identifying information, damages in an amount three times the value of all costs incurred as a result of the criminal activity. These costs may include, but are not limited to, those incurred by the victim in clearing his credit history or credit rating, or those incurred 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. The victim may also recover costs incurred for attorneys' fees, court costs, and any out-of-pocket losses.

Statute: §2C:21-17.4: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302198&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17FD}&softpage=Doc_Frame_PG42

Court Orders: On motion of a person who has been the victim of identity theft, the court may grant an order directing all consumer reporting agencies doing business in the state to delete those items of information from the victim's file that were the result of the unlawful use of the victim's personal identifying information. At the request of the victim, the consumer reporting agency must provide notification of the deleted items to any person specifically designated by the victim who has within the past two years received a consumer report for employment purposes, or within one year has a received a consumer report for any other purpose, that contained the deleted or disputed information.

Statute: §2C:21-17.5: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302198&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17FF}&softpage=Doc_Frame_PG42

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 or by a secure e-mail connection (if provided) to the credit reporting agencies. There is no charge for placing a freeze, but the credit reporting agencies may charge a \$5 fee for temporarily unlocking the freeze.

The reporting agency must place the freeze within five business days after receiving the request, and within five 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: §C.56:11-46: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=2289471&Depth=4&TD=WRAP&advquery=%22security%20freeze%22&headingswithhits=on&infobase=statutes.nfo&rank=&record={17BC9}&softpage=Doc_Frame_Pg42&wordsaroundhits=2&x=0&y=0&zz=

“How to Place a Freeze on Your Credit Report”:
<http://www.state.nj.us/lps/ca/brief/securityfreeze.pdf>

Security Breach: State law requires state and local government agencies and businesses operating in the state that collect and maintain computerized records containing 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 occurs upon “unauthorized access to electronic files, media or data containing personal information that

compromises the security, confidentiality or integrity” of such information. Personal identifying information is defined as a first name or first initial and last name linked with one or more of the following: Social Security number, driver’s license number, or credit or debit card number in combination with any required access code. Publicly available information is not included.

Disclosure must occur to any resident of the state whose personal information was, or is reasonably believed to have been, accessed by an authorized person. The disclosure must be made in the most expedient time possible, and without unreasonable delay, consistent with legitimate needs of law enforcement. Before notifying consumers, businesses and public entities must first report the breach to the New Jersey State Police and receive notification that disclosure will not compromise a law enforcement investigation. The consumer reporting agencies must also be notified when the breach is disclosed to more than 1,000 people at a time.

Notification can be provided to the affected persons by mail 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 entity or business not have sufficient contact information, 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 entity’s web site, and notification to statewide media.

Statute: §56:8-163: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302315&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17B96}&softpage=Doc_Frame_PG42

Denial of Credit: State law prohibits businesses from denying a person credit, or from refusing to increase a person’s credit limit, based solely on his/her status as an identity theft victim.

Statute: §56:11-51: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=302315&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={17C91}&softpage=Doc_Frame_PG42

State Resources:

Office of the Attorney General, “Identity Theft” (<http://www.nj.gov/oag/ca/idtheft.htm>)

This web site includes a summary of the 2005 Identity Theft Prevention Act and links to fact sheets on various aspects of the law, including:

- “Identity Theft and Phishing” (<http://www.state.nj.us/lps/ca/brief/idtheft.pdf>)
- “Identity Theft Prevention Act: A Guide for Businesses” (<http://www.state.nj.us/lps/ca/brief/idtheftbus.pdf>)
- “Phishing” (<http://www.state.nj.us/lps/ca/brief/phishing.pdf>)
- “Identity Theft: Information and Assistance” (<http://www.nj.gov/lps/dcj/idtheft.htm>)
- “Keep Your Personal Information Private” (<http://www.state.nj.us/lps/ca/brief/pri2.htm>)

“What Actions Can an Identity Theft Victim Take?”

(http://www.nj.gov/lps/dcj/idtheft/id_actions.htm)

This site contains detailed information on sixteen steps that identity theft victims should take.

The first step is: “*Report the Incident to a Law Enforcement Agency: A person who believes they are a victim of an Identity Theft is encouraged to promptly report those facts to a law*”

enforcement agency. In New Jersey a victim can report an Identity Theft to the Office of the County Prosecutor of the county where the theft is believed to have taken place, or to the local police department. Those law enforcement agencies are responsible, in the first instance, for investigating such offenses and for developing the necessary evidence to pursue the matter as a criminal prosecution, if the facts warrant. 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.”

“Identity Theft – Citizen / Victim Assistance”

(<http://www.nj.gov/lps/dcj/idtheft/pdf/idtheftbrochure.pdf>)

This document contains the sixteen steps mentioned in the previous document, as well as contact information for people who require additional assistance.

New Jersey State Police, “Identity Theft Victim’s Reference Guide”

(<http://www.state.nj.us/lps/njsp/tech/identity.html>)

This document directs victims of identity theft to: “*Contact your local police department, file a report and obtain a case number. Most credit and financial institutions will require that you make a police report.*” It explains how victims can assist law enforcement with their case:

- *“Set up a folder to keep a detailed history of the crime. Keep a log of all contacts and make copies of all documents. Provide this information to the police and assist them with obtaining additional information.*
- *Gather all evidence and documentation of your financial loss and provide it to the police.*
- *Obtain suspect information or descriptions and provide it to the police.*
- *Obtain possible witness information, the salesperson, apartment managers, employers and persons who accepted the fraudulent applications or documents. Provide this information to the police.*
- *Complete FTC “Identity Crimes Affidavit” and provide it to the police.”*

Department of Banking and Insurance, “Identity Theft”

(http://www.state.nj.us/dobi/division_consumers/finance/identitytheft.htm)

This site includes action steps for identity theft victims, including, “*Step 1: Contact your local law enforcement agency (and retain a copy of any filed report).*”

Legislation:

2006:

S 1643 prohibits businesses from denying a person credit or utility services, or from denying an increase in a person’s credit limits based solely on their status as an identity theft victim.

2005:

The Legislature passed a comprehensive bill (**AB 4001 / SB 1914**) targeting identity theft. Known as the Identity Theft Prevention Act, the law:

- 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. All

consumers may place a security freeze on their credit files for free and lift it temporarily for \$5 when applying for credit.

- Affirms an individual's right to file and receive a copy of a police report concerning suspected identity theft. The bill requires police departments to take identity theft reports from victims living in their jurisdictions.
- Requires state and local government agencies and any company that lawfully collects and maintains computerized records containing consumer's personal information to notify affected consumers in the event that personal data is compromised. Before notifying consumers, businesses and public entities must first report the breach to the New Jersey State Police and receive notification that disclosure will not compromise a law enforcement investigation. The consumer reporting agencies must also be notified when the breach is disclosed to more than 1,000 people at a time.
- Limits the use of a consumer's Social Security number (SSN) as an identifier and prohibits public display and usage of the number on printed materials except where required by law. It prohibits the display of SSNs on most mailed materials and on membership cards and prohibits transmission of the numbers over the Internet unless it is encrypted.
- Requires businesses and state and local government agencies to destroy records containing a customer's personal information that is no longer needed. Customer records containing private personal information must be shredded, erased, or otherwise modified to make personal information unreadable.

AB 2768 expands the state's identity theft laws by making it a crime to sell, manufacture, possess or exhibit fake birth certificates. It also prohibits using a false birth certificate to obtain a government document that could be used for verifying a person's identity and possessing the tools necessary to create forged birth certificate. This makes birth certificate forgery equal under the law to making false driver's licenses or other government documents. It also increases the penalties for people who possess forgery devices to a second-degree crime, punishable by up to ten years in prison and/or up to \$150,000 in fines.

AB 2769 / S 2617 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 crime 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.

2003:

AB 3226 increases the penalties for anyone convicted of identity theft crimes and provides for restitution and restoration of a victim's financial status and credit history. Under the law, identity theft is an enhanced offense with upgraded penalties and fines. Those charged with using in excess of five identities, stealing more than \$75,000, or selling, producing, or possessing a fraudulent driver's license or government document will now face prosecution for a second degree crime, with penalties of up to 10 years in prison and a \$150,000 fine.

In addition, the measure contains provisions designed to protect victims of identity theft. Victims now have the right to recover up to three times the monetary damages in a civil suit. This includes three times the value of all that is lost, all their attorneys' fees, all their court costs and any out-of-pocket expenses. In addition, victims will now have the legal power to restore their credit reports to eliminate the improper charges and transactions due to the identity theft. Courts are now authorized to grant an order directing all consumer reporting agencies to delete the record of bad credit that was created as a result of the identity theft.