

SECOND REGULAR SESSION

# HOUSE BILL NO. 916

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES BROWN (Sponsor), PAGE, MYERS, MUNZLINGER,  
HANAWAY, DUSENBERG, YATES, SMITH (14), LEMBKE AND WILSON (119) (Co-sponsors).

Pre-filed December 19, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3308L.011

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### AN ACT

To repeal section 570.223, RSMo, and to enact in lieu thereof two new sections relating to identity theft, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 570.223, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 570.223 and 570.224, to read as follows:

570.223. 1. A person commits the crime of identity theft if he **or she** knowingly and with the intent to deceive or defraud obtains, possesses, [transfers,] uses, or attempts to obtain, [transfer] or use, one or more means of identification not lawfully issued for his **or her** use.

2. [Identity theft is punishable by up to six months in jail for the first offense; up to one year in jail for the second offense; and one to five years imprisonment for the third or subsequent offense.] **The term "means of identification" as used in this section includes the following:**

- 7 (1) **Social Security numbers;**
- 8 (2) **Drivers license numbers;**
- 9 (3) **Checking account numbers;**
- 10 (4) **Savings account numbers;**
- 11 (5) **Credit card numbers;**
- 12 (6) **Debit card numbers;**
- 13 (7) **Personal identification (PIN) code;**
- 14 (8) **Electronic identification numbers;**
- 15 (9) **Digital signatures;**

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

16           **(10) Any other numbers or information that can be used to access a person's**  
17 **financial resources;**

18           **(11) Biometric data;**

19           **(12) Fingerprints;**

20           **(13) Passwords; or**

21           **(14) Parent's legal surname prior to marriage.**

22           **3. A person found guilty of identity theft shall be punished as follows:**

23           **(1) Identity theft which results in the theft or appropriation of credit, money, goods,**  
24 **services, or other property not exceeding five hundred dollars in value is a class A**  
25 **misdemeanor;**

26           **(2) Identity theft which results in the theft or appropriation of credit, money, goods,**  
27 **services, or other property exceeding five hundred dollars and not exceeding one thousand**  
28 **dollars in value is a class D felony;**

29           **(3) Identity theft which results in the theft or appropriation of credit, money, goods,**  
30 **services, or other property exceeding one thousand dollars and not exceeding ten thousand**  
31 **dollars in value is a class C felony;**

32           **(4) Identity theft which results in the theft or appropriation of credit, money, goods,**  
33 **services, or other property exceeding ten thousand dollars and not exceeding one hundred**  
34 **thousand dollars in value is a class B felony;**

35           **(5) Identity theft which results in the theft or appropriation of credit, money, goods,**  
36 **services, or other property exceeding one hundred thousand dollars in value is a class A**  
37 **felony.**

38           **4. In addition to the provisions of subsection [2] 3 of this section, the court may order**  
39 **that the defendant make restitution to any victim of the offense. Restitution may include**  
40 **payment for any costs, including attorney fees, incurred by the victim:**

41           **(1) In clearing the credit history or credit rating of the victim; and**

42           **(2) In connection with any civil or administrative proceeding to satisfy any debt, lien,**  
43 **or other obligation of the victim arising from the actions of the defendant.**

44           **5. In addition to the criminal penalties in subsections 3 and 4 of this section, any**  
45 **person who commits an act made unlawful by subsection 1 of this section shall be liable to**  
46 **the person to whom the identifying information belonged for civil damages of up to five**  
47 **thousand dollars for each incident, or three times the amount of actual damages, whichever**  
48 **amount is greater. A person damaged as set forth in subsection 1 of this section may also**  
49 **institute a civil action to enjoin and restrain future acts that would constitute a violation**  
50 **of subsection 1 of this section. The court, in an action brought under this subsection, may**  
51 **award reasonable attorneys' fees to the prevailing party.**

52           **6. If the identifying information of a deceased person is used in a manner made**  
53 **unlawful by subsection 1 of this section, the deceased person's estate shall have the right**  
54 **to recover damages pursuant to subsection 5 of this section.**

55           **7. The venue for any civil action brought pursuant to this section shall be the**  
56 **county in which the plaintiff resides or any county in which any part of the alleged**  
57 **violation of subsection 1 of this section took place, regardless of whether the defendant was**  
58 **ever actually present in that county. Civil actions under this section must be brought**  
59 **within three years from the date on which the identity of the wrongdoer was discovered or**  
60 **reasonably should have been discovered.**

61           **8. Civil action pursuant to this section does not depend on whether a criminal**  
62 **prosecution has been or will be instituted for the acts that are the subject of the civil action.**  
63 **The rights and remedies provided by this section are in addition to any other rights and**  
64 **remedies provided by law.**

65           **9. This section shall not apply when:**

66           **(1) A person obtains the identity of another person to misrepresent his or her age**  
67 **for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming**  
68 **establishment, or another privilege denied to minors;**

69           **(2) A person obtains credit information in the course of a bona fide consumer or**  
70 **commercial transaction;**

71           **(3) A person exercises, in good faith, a security interest or right of offset by a**  
72 **creditor or financial institution;**

73           **(4) A person complies, in good faith, with any warrant, court order, levy,**  
74 **garnishment, attachment, or other judicial or administrative order, decree, or directive,**  
75 **when any party is required to do so.**

76           **10. Notwithstanding the provisions of subdivision (1) of subsection 3 of this section,**  
77 **every person who has previously pled guilty to or been found guilty of identity theft, and**  
78 **who subsequently pleads guilty to or is found guilty of identity theft of credit, money,**  
79 **goods, services, or other property not exceeding five hundred dollars in value is guilty of**  
80 **a class D felony and shall be punished accordingly.**

81           **11. The value of property or services is its highest value by any reasonable standard**  
82 **at the time the identity theft is committed. Any reasonable standard includes, but is not**  
83 **limited to market value within the community, actual value, or replacement value.**

84           **12. If credit, property, or services are obtained by two or more acts from the same**  
85 **person or location, or from different persons by two or more acts which occur in**  
86 **approximately the same location or time period so that the identity thefts are attributable**

87 to a single scheme, plan, or conspiracy, the acts may be considered as a single identity theft  
88 and the value may be the total value of all credit, property, and services involved.

89 **13. In a criminal proceeding pursuant to this section, venue will be proper in any**  
90 **county where the person whose means of identification or financial information was**  
91 **appropriated resides, or in which any part of the offense took place, regardless of whether**  
92 **the defendant was ever actually in that locality.**

**570.224. 1. A person commits the crime of trafficking in stolen identities when such**  
2 **person manufactures, sells, transfers, purchases, or possesses, with intent to manufacture,**  
3 **sell, transfer, or purchase identification documents or identifying information, for the**  
4 **purpose of committing identity theft.**

5 **2. Possession of five or more identification documents of the same person, or**  
6 **possession of identifying information of five or more separate persons, shall be evidence**  
7 **that the identities are possessed with intent to manufacture, sell, transfer, or purchase**  
8 **identification documents or identifying information for the purpose of committing identity**  
9 **theft.**

10 **3. Trafficking in stolen identities is a class B felony.**