

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**SENATE BILL 1048  
Judiciary I Committee Substitute Adopted 5/23/05**

Short Title: Identity Theft Protection Act of 2005. (Public)

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Sponsors:

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Referred to:

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March 24, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT ENACTING THE IDENTITY THEFT PROTECTION ACT OF 2005.  
3 The General Assembly of North Carolina enacts:

4 SECTION 1. Chapter 75 of the General Statutes is amended by adding a  
5 new Article to read:

"Article 2A.

"Identity Theft Protection Act.

6 **"§ 75-60. Title.**

7 This Article shall be known and may be cited as the "Identity Theft Protection Act".

8 **"§ 75-61. Definitions.**

9 The following definitions apply in this Article:

- 10 (1) "Business". – A sole proprietorship, partnership, corporation,  
11 association, or other group, however organized and whether or not  
12 organized to operate at a profit. The term includes a financial  
13 institution organized, chartered, or holding a license or authorization  
14 certificate under the laws of this State, any other state, the United  
15 States, or any other country, or the parent or the subsidiary of any such  
16 financial institution. Business shall not include any government or  
17 governmental subdivision or agency.
- 18 (2) "Consumer". – An individual.
- 19 (3) "Consumer reporting agency". – Any person who, for monetary fees,  
20 dues, or on a cooperative nonprofit basis, regularly engages in whole  
21 or in part in the practice of assembling or evaluating consumer credit  
22 information or other information on consumers for the purpose of  
23 furnishing consumer reports to third parties.
- 24 (4) "Consumer report" or "credit report". – Any written, oral, or other  
25 communication of any information by a consumer reporting agency  
26 bearing on a consumer's creditworthiness, credit standing, credit  
27 capacity, character, general reputation, personal characteristics, or  
28  
29

1 mode of living which is used or expected to be used or collected in  
2 whole or in part for the purpose of serving as a factor in establishing  
3 the consumer's eligibility for any of the following:

4 a. Credit to be used primarily for personal, family, or household  
5 purposes.

6 b. Employment purposes.

7 c. Any other purpose authorized under 15 U.S.C. § 1681(b).

8 (5) "Credit card". – Has the same meaning as in section 103 of the Truth  
9 in Lending Act (15 U.S.C. § 160, et seq.).

10 (6) "Debit card". – Any card or device issued by a financial institution to a  
11 consumer for use in initiating an electronic fund transfer from the  
12 account holding assets of the consumer at such financial institution, for  
13 the purpose of transferring money between accounts or obtaining  
14 money, property, labor, or services.

15 (7) "Disposal" includes the following:

16 a. The discarding or abandonment of records containing personal  
17 information.

18 b. The sale, donation, discarding, or transfer of any medium,  
19 including computer equipment or computer media, containing  
20 records of personal information, or other nonpaper media upon  
21 which records of personal information are stored, or other  
22 equipment for nonpaper storage of information.

23 (8) "Person". – Any individual, partnership, corporation, trust, estate,  
24 cooperative, association, government, or governmental subdivision or  
25 agency, or other entity.

26 (9) "Personal information". – An individual's first name or first initial and  
27 last name in combination with identifying information as defined in  
28 G.S. 14-113.20(b). Personal information does not include information  
29 that is lawfully made available to the general public from federal, state,  
30 or local government records, or publicly available directories  
31 containing information an individual has voluntarily consented to have  
32 publicly disseminated or listed, including name, address, and telephone  
33 number.

34 (10) "Proper identification". – Information generally deemed sufficient to  
35 identify a person. If a person is unable to reasonably identify himself  
36 or herself with the information described above, a consumer reporting  
37 agency may require additional information concerning the consumer's  
38 employment and personal or family history in order to verify the  
39 consumer's identity.

40 (11) "Records". – Any material on which written, drawn, spoken, visual, or  
41 electromagnetic information is recorded or preserved, regardless of  
42 physical form or characteristics.

43 (12) "Security breach". – An incident of unauthorized access to and  
44 acquisition of records or data containing personal information where

1                    unauthorized or illegal use of the personal information has occurred or  
2                    is reasonably likely to occur. Good faith acquisition of personal  
3                    information by an employee or agent of the business for a legitimate  
4                    purpose is not a security breach, provided that the personal information  
5                    is not used for a purpose other than a lawful purpose of the business  
6                    and is not subject to further unauthorized disclosure.

- 7                    (13) "Security freeze". – Notice placed in a credit report, at the request of  
8                    the consumer and subject to certain exceptions, that prohibits the  
9                    consumer reporting agency from releasing all or any part of the  
10                   consumer's credit report or any information derived from it without the  
11                   express authorization of the consumer.

12 **"§ 75-62. Social security number protection.**

13                   (a) Except as provided in subsection (b) of this section, a business may not do  
14 any of the following:

- 15                   (1) Intentionally communicate or otherwise make available to the general  
16                   public an individual's social security number or any portion thereof of  
17                   six digits or more.  
18                   (2) Intentionally print or imbed an individual's social security number or  
19                   any portion thereof of six digits or more on any card required for the  
20                   individual to access products or services provided by the person or  
21                   entity.  
22                   (3) Require an individual to transmit his or her social security number or  
23                   any portion thereof of six digits or more over the Internet, unless the  
24                   connection is secure or the social security number is encrypted.  
25                   (4) Require an individual to use his or her social security number or any  
26                   portion thereof of six digits or more to access an Internet Web site,  
27                   unless a password or unique personal identification number or other  
28                   authentication device is also required to access the Internet Web site.  
29                   (5) Print an individual's social security number or any portion thereof of  
30                   six digits or more on any materials that are mailed to the individual,  
31                   unless state or federal law requires the social security number to be on  
32                   the document to be mailed.  
33                   (6) Sell, lease, loan, trade, rent, or otherwise intentionally disclose an  
34                   individual's social security number or any portion thereof of six digits  
35                   or more to a third party without written consent to the disclosure from  
36                   the individual, when the party making the disclosure knows or has  
37                   reasonable grounds to believe that the third party lacks a legitimate  
38                   business purpose for obtaining the individual's social security number.

39                   (b) Subsection (a) of this section shall not apply in the following instances:

- 40                   (1) When a social security number is included in an application or in  
41                   documents related to an enrollment process, or to establish an account,  
42                   contract, or policy or to confirm the accuracy of the social security  
43                   number for the purpose of obtaining a credit report pursuant to 15  
44                   U.S.C. § 1681(b)(2). A social security number that is permitted to be

1           mailed under this section may not be printed, in whole or in part, on a  
2           postcard or other mailer not requiring an envelope, or visible on the  
3           envelope or without the envelope having been opened.

4           (2) To the collection, use, or release of a social security number for  
5           internal verification or administrative purposes.

6           (3) To the opening of an account or the provision of or payment for a  
7           product or service authorized by an individual.

8           (4) To the collection, use, or release of a social security number to  
9           investigate or prevent fraud, conduct background checks, conduct  
10           social or scientific research, collect a debt, or obtain a credit report  
11           from or furnish data to a consumer reporting agency, pursuant to the  
12           Fair Credit Reporting Act, 15 U.S.C. § 1681, et seq.

13           (5) To a business acting pursuant to a court order, warrant, subpoena, or  
14           when otherwise required by law.

15           (6) To a business providing the social security number to a federal, state,  
16           or local government entity, including a law enforcement agency, court,  
17           or their agents or assigns.

18           (c) A business covered by this section shall make reasonable efforts to cooperate,  
19           through systems testing and other means, to ensure that the requirements of this Article  
20           are implemented on or before the dates specified in this section.

21           (d) A violation of this section is a violation of G.S. 75-1.1.

22           "**§ 75-63. Security freeze.**

23           (a) A consumer or the consumer's attorney-in-fact or legal guardian may place a  
24           security freeze on the consumer's credit report by making a request in writing by  
25           certified mail to a consumer reporting agency. A security freeze shall prohibit, subject  
26           to exceptions in subsection (l) of this section, the consumer reporting agency from  
27           releasing the consumer's credit report or any information from it without the express  
28           authorization of the consumer. When a security freeze is in place, a consumer reporting  
29           agency may not release the consumer's credit report or information to a third party  
30           without prior express authorization from the consumer. This subsection does not prevent  
31           a consumer reporting agency from advising a third party that a security freeze is in  
32           effect with respect to the consumer's credit report.

33           (b) A consumer reporting agency shall place a security freeze on a consumer's  
34           credit report no later than five business days after receiving a written request from the  
35           consumer.

36           (c) The consumer reporting agency shall send a written confirmation of the  
37           security freeze to the consumer within 10 business days of placing the freeze and at the  
38           same time shall provide the consumer with a unique personal identification number or  
39           password, other than the consumer's social security number, to be used by the consumer  
40           when providing authorization for the release of the consumer's credit report for a  
41           specific period of time.

42           (d) If the consumer wishes to allow the consumer's credit report to be accessed  
43           for a specific period of time while a freeze is in place, the consumer shall contact the

1 consumer reporting agency, request that the freeze be temporarily lifted, and provide all  
2 of the following:

3 (1) Proper identification.

4 (2) The unique personal identification number or password provided by  
5 the consumer reporting agency pursuant to subsection (c) of this  
6 section.

7 (3) The proper information regarding the time period for which the report  
8 shall be available to users of the credit report.

9 (e) A consumer reporting agency may develop procedures involving the use of  
10 telephone, fax, the Internet, or other electronic media to receive and process a request  
11 from a consumer to temporarily lift a freeze on a credit report pursuant to subsection (d)  
12 of this section in an expedited manner.

13 (f) A consumer reporting agency that receives a request from a consumer to  
14 temporarily lift a freeze on a credit report pursuant to subsection (d) of this section shall  
15 comply with the request no later than three business days after receiving the request.

16 (g) A consumer reporting agency shall remove or temporarily lift a freeze placed  
17 on a consumer's credit report only in the following cases:

18 (1) Upon the consumer's request, pursuant to subsections (d) or (j) of this  
19 section.

20 (2) If the consumer's credit report was frozen due to a material  
21 misrepresentation of fact by the consumer. If a consumer reporting  
22 agency intends to remove a freeze upon a consumer's credit report  
23 pursuant to this subdivision, the consumer reporting agency shall  
24 notify the consumer in writing five business days prior to removing the  
25 freeze on the consumer's credit report.

26 (h) If a third party requests access to a consumer credit report on which a security  
27 freeze is in effect and this request is in connection with an application for credit or any  
28 other use and the consumer does not allow the consumer's credit report to be accessed  
29 for that specific period of time, the third party may treat the application as incomplete.

30 (i) If a consumer requests a security freeze pursuant to this section, the consumer  
31 reporting agency shall disclose to the consumer the process of placing and temporarily  
32 lifting a security freeze and the process for allowing access to information from the  
33 consumer's credit report for a specific period of time while the security freeze is in  
34 place.

35 (j) A security freeze shall remain in place until the consumer requests that the  
36 security freeze be removed. A consumer reporting agency shall remove a security freeze  
37 within three business days of receiving a request for removal from the consumer, who  
38 provides all of the following:

39 (1) Proper identification.

40 (2) The unique personal identification number or password provided by  
41 the consumer reporting agency pursuant to subsection (c) of this  
42 section.

43 (k) A consumer reporting agency shall require proper identification of the person  
44 making a request to place or remove a security freeze.

1       (l) The provisions of this section do not apply to the use of a consumer credit  
2 report by any of the following:

3           (1) A person, or the person's subsidiary, affiliate, agent, subcontractor, or  
4 assignee with whom the consumer has, or prior to assignment had, an  
5 account, contract, or debtor-creditor relationship for the purposes of  
6 reviewing the active account or collecting the financial obligation  
7 owing for the account, contract, or debt.

8           (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a  
9 person to whom access has been granted under subsection (d) of this  
10 section for purposes of facilitating the extension of credit or other  
11 permissible use.

12           (3) Any person acting pursuant to a court order, warrant, or subpoena.

13           (4) A state or local agency, or its agents or assigns, which administers a  
14 program for establishing and enforcing child support obligations.

15           (5) A state or local agency, or its agents or assigns, acting to investigate  
16 fraud, including Medicaid fraud, or acting to investigate or collect  
17 delinquent taxes or assessments, including interest and penalties,  
18 unpaid court orders or to fulfill any of its other statutory  
19 responsibilities.

20           (6) A federal, state, or local governmental entity, including law  
21 enforcement agency, court, or their agent or assigns.

22           (7) A person for the purposes of prescreening as defined by the Fair Credit  
23 Reporting Act, 15 U.S.C. § 1681, et seq.

24           (8) Any person for the sole purpose of providing for a credit file  
25 monitoring subscription service to which the consumer has subscribed.

26           (9) A consumer reporting agency for the purpose of providing a consumer  
27 with a copy of the consumer's credit report upon the consumer's  
28 request.

29           (10) Any depository financial institution for checking, savings, and  
30 investment accounts.

31       (m) If a security freeze is in place, a consumer reporting agency shall not change  
32 any of the following official information in a credit report without sending a written  
33 confirmation of the change to the consumer within 30 days of the change being posted  
34 to the consumer's file: name, date of birth, social security number, and address. Written  
35 confirmation is not required for technical modifications of a consumer's official  
36 information, including name and street abbreviations, complete spellings, or  
37 transposition of numbers or letters. In the case of an address change, the written  
38 confirmation shall be sent to both the new address and the former address.

39       (n) The following persons are not required to place in a credit report a security  
40 freeze pursuant to this section provided, however, that any person that is not required to  
41 place a security freeze on a credit report under the provisions of subdivision (3) of this  
42 subsection shall be subject to any security freeze placed on a credit report by another  
43 consumer reporting agency from which it obtains information:

1           (1) A check services or fraud prevention services company, which reports  
2 on incidents of fraud or issues authorizations for the purpose of  
3 approving or processing negotiable instruments, electronic fund  
4 transfers, or similar methods of payment.

5           (2) A deposit account information service company, which issues reports  
6 regarding account closures due to fraud, substantial overdrafts, ATM  
7 abuse, or other similar negative information regarding a consumer to  
8 inquiring banks or other financial institutions for use only in reviewing  
9 a consumer request for a deposit account at the inquiring bank or  
10 financial institution.

11          (3) A consumer reporting agency that does all of the following:

12           a. Acts only to resell credit information by assembling and  
13 merging information contained in a database of one or more  
14 credit reporting agencies.

15           b. Does not maintain a permanent database of credit information  
16 from which new credit reports are produced.

17          (o) This section does not prevent a consumer reporting agency from charging a  
18 fee of no more than ten dollars (\$10.00) to a consumer for each freeze, removal of the  
19 freeze, or temporary lifting of the freeze for a period of time, regarding access to a  
20 consumer credit report, except that a consumer reporting agency may not charge any fee  
21 to a victim of identity theft who has submitted a copy of a valid investigative or incident  
22 report or complaint with a law enforcement agency about the unlawful use of the  
23 victim's identifying information by another person.

24          (p) At any time that a consumer is required to receive a summary of rights  
25 required under section 609 of the federal Fair Credit Reporting Act, the following notice  
26 shall be included:

27           **"North Carolina Consumers Have the Right to Obtain a Security Freeze.**

28           You have a right to place a "security freeze" on your credit report pursuant to North  
29 Carolina law. The security freeze will prohibit a consumer reporting agency from  
30 releasing any information in your credit report without your express authorization. A  
31 security freeze must be requested in writing by certified mail.

32           The security freeze is designed to prevent credit, loans, and services from being  
33 approved in your name without your consent. However, you should be aware that using  
34 a security freeze to take control over who gains access to the personal and financial  
35 information in your credit report may delay, interfere with, or prohibit the timely  
36 approval of any subsequent request or application you make regarding new loans, credit,  
37 mortgage, insurance, rental housing, employment, investment, license, cellular phone,  
38 utilities, digital signature, Internet credit card transactions, or other services, including  
39 an extension of credit at point of sale.

40           The freeze will be placed within five business days. When you place a security  
41 freeze on your credit report, within 10 business days, you will be provided a personal  
42 identification number or a password to use when you want to remove or lift temporarily  
43 the security freeze.

1 A freeze does not apply when you have an existing account relationship and a copy  
2 of your report is requested by your existing creditor or its agents or affiliates for certain  
3 types of account review, collection, fraud control, or similar activities.

4 You should plan ahead and lift a freeze if you are actively seeking credit or services  
5 as a security freeze may slow your applications, as mentioned above.

6 You can remove a freeze or authorize temporary access for a specific period of time  
7 by contacting the consumer reporting agency and providing all of the following:

- 8 1. Your personal identification number or password,
- 9 2. Proper identification to verify your identity, and
- 10 3. Proper information regarding the period of time you want your report  
11 available to users of the credit report.

12 A consumer reporting agency that receives a request from you to temporarily lift a  
13 freeze on a credit report shall comply with the request no later than three business days  
14 after receiving the request. A consumer reporting agency may charge you up to ten  
15 dollars (\$10.00) for each time you freeze, remove the freeze, or temporarily lift the  
16 freeze for a period of time, except a consumer reporting agency may not charge any  
17 amount to a victim of identify theft who has submitted a copy of a valid investigative or  
18 incident report or complaint with a law enforcement agency about the unlawful use of  
19 the victim's identifying information by another person.

20 You have a right to bring a civil action against someone who violates your rights  
21 under the credit reporting laws. The action can be brought against a consumer reporting  
22 agency or a user of your credit report."

23 (q) A violation of this section is a violation of G.S. 75-1.1.

24 **"§ 75-64. Destruction of personal information records.**

25 (a) Any business that conducts business in North Carolina and any business that  
26 maintains or otherwise possesses personal information of a resident of North Carolina  
27 must take all reasonable measures to protect against unauthorized access to or use of the  
28 information in connection with or after its disposal.

29 (b) The reasonable measures must include:

- 30 (1) Implementing and monitoring compliance with policies and  
31 procedures that require the burning, pulverizing, or shredding of  
32 papers containing personal information so that information cannot be  
33 practicably read or reconstructed.
- 34 (2) Implementing and monitoring compliance with policies and  
35 procedures that require the destruction or erasure of electronic media  
36 and other nonpaper media containing personal information so that the  
37 information cannot practicably be read or reconstructed.
- 38 (3) Describing procedures relating to the adequate destruction or proper  
39 disposal of personal records as official policy in the writings of the  
40 business entity.

41 (c) A business may, after due diligence, enter into a written contract with, and  
42 monitor compliance by, another party engaged in the business of record destruction to  
43 destroy personal information in a manner consistent with this section. Due diligence  
44 should ordinarily include one or more of the following:

- 1           (1) Reviewing an independent audit of the disposal business's operations  
2           or its compliance with this statute or its equivalent.  
3           (2) Obtaining information about the disposal business from several  
4           references or other reliable sources and requiring that the disposal  
5           business be certified by a recognized trade association or similar third  
6           party with a reputation for high standards of quality review.  
7           (3) Reviewing and evaluating the disposal business's information security  
8           policies or procedures or taking other appropriate measures to  
9           determine the competency and integrity of the disposal business.

10        (d) A disposal business that conducts business in North Carolina or disposes of  
11 personal information of residents of North Carolina must take all reasonable measures  
12 to dispose of records containing personal information by implementing and monitoring  
13 compliance with policies and procedures that protect against unauthorized access to or  
14 use of personal information during or after the collection and transportation and  
15 disposing of such information.

16        (e) This section does not apply to any of the following:

- 17           (1) Any bank or financial institution that is subject to and in compliance  
18           with the privacy and security provision of the Gramm-Leach-Bliley  
19           Act, 15 U.S.C. § 6801, et seq., as amended.  
20           (2) Any health insurer that is subject to and in compliance with the  
21           standards for privacy of individually identifiable health information  
22           and the security standards for the protection of electronic health  
23           information of the Health Insurance Portability and Accountability Act  
24           of 1996.  
25           (3) Any consumer reporting agency that is subject to and in compliance  
26           with the Federal Credit Reporting Act, 15 U.S.C. § 1681, et seq., as  
27           amended.

28        (f) A violation of this section is a violation of G.S. 75-1.1.

29        **§ 75-65. Protection from security breaches.**

30        (a) Any business that maintains or otherwise possesses personal information of  
31 residents of North Carolina or any business that conducts business in North Carolina  
32 that maintains or otherwise possesses personal information of consumers in any form  
33 (whether computerized, paper, or otherwise) shall provide notice to the affected person  
34 that there has been a security breach following discovery or notification of the breach.  
35 The disclosure notification shall be made without unreasonable delay, consistent with  
36 the legitimate needs of law enforcement, as provided in subsection (b) of this section, or  
37 with any measures necessary to determine the scope of the breach and restore the  
38 reasonable integrity, security, and confidentiality of the data system. For the purposes of  
39 this section, personal information shall not include electronic identification numbers,  
40 electronic mail, Internet accounts or Internet identification, parent's legal surname prior  
41 to marriage, or a password unless this information would permit access to a person's  
42 financial account or resources.

43        (b) The notice required by this section may be delayed if a law enforcement  
44 agency determines in writing that notification may impede a criminal investigation or

1 jeopardize national or homeland security. The notice required by this section shall be  
2 provided immediately after the law enforcement agency determines that notice will no  
3 longer impede the investigation or jeopardize national or homeland security.

4 (c) The notice shall be clear and conspicuous. The notice shall include a  
5 description of the following:

6 (1) The incident in general terms.

7 (2) The type of consumer's personal information that was subject to the  
8 unauthorized access and acquisition.

9 (3) The acts of the business to protect the personal information from  
10 further unauthorized access.

11 (4) A telephone number that the consumer may call for further  
12 information and assistance.

13 (5) Advice that directs the consumer to remain vigilant over the next  
14 12-24 months by reviewing account statements and monitoring free  
15 credit reports.

16 (d) For purposes of this section, notice to affected persons may be provided by  
17 one of the following methods:

18 (1) Written notice.

19 (2) Electronic notice, for those customers for whom it has a valid e-mail  
20 address and who have agreed to receive communications electronically  
21 if the notice provided is consistent with the provisions regarding  
22 electronic records and signatures for notices legally required to be in  
23 writing set forth in 15 U.S.C. § 7001.

24 (3) Substitute notice, if the business demonstrates that the cost of  
25 providing notice would exceed two hundred fifty thousand dollars  
26 (\$250,000) or that the affected class of subject persons to be notified  
27 exceeds 500,000, or if the business does not have sufficient contact  
28 information, for only those affected persons without sufficient contact  
29 information, or if the business is unable to identify particular affected  
30 persons, for only those unidentifiable affected persons. Substitute  
31 notice shall consist of all the following:

32 a. E-mail notice when the business has an electronic mail address  
33 for the subject persons.

34 b. Conspicuous posting of the notice on the Web site page of the  
35 business, if one is maintained.

36 c. Notification to major statewide media.

37 (e) In the event a business provides notice to more than 1,000 consumers at one  
38 time pursuant to this section, the business shall notify, without unreasonable delay, the  
39 Consumer Protection Division of the Attorney General's Office and all consumer  
40 reporting agencies that compile and maintain files on consumers on a nationwide basis,  
41 as defined in 15 U.S.C. § 1681a(p), of the timing, distribution, and content of the notice.

42 (f) Any waiver of the provisions of this Article is contrary to public policy and is  
43 void and unenforceable.

1 (g) A financial institution that is subject to and in compliance with the Federal  
2 Interagency Guidance Response Programs for Unauthorized Access to Consumer  
3 Information and Customer Notice, issued on March 7, 2005, by the Board of Governors  
4 of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of  
5 the Comptroller of the Currency, and the Office of Thrift Supervision, and any  
6 revisions, additions, or substitutions relating to said interagency guidance, shall be  
7 deemed to be in compliance with this section.

8 (h) A violation of this section is a violation of G.S. 75-1.1."

9 **SECTION 2.** G.S. 14-113.21 reads as rewritten:

10 **"§ 14-113.21. Venue of offenses.**

11 In any criminal proceeding brought under G.S. 14-113.20, the crime is considered to  
12 be committed in ~~any county in which~~ the county where the victim resides, where the  
13 perpetrator resides, where any part of the financial identity fraud took place, or in any  
14 other county instrumental to the completion of the offense, regardless of whether the  
15 defendant was ever actually present in that county."

16 **SECTION 3.** Article 19C of Chapter 14 of the General Statutes is amended  
17 by adding a new section to read:

18 **"§ 14-113.21A. Investigation of offenses.**

19 (a) A person who has learned or reasonably suspects that the person has been the  
20 victim of identity theft may contact the local law enforcement agency that has  
21 jurisdiction over the person's actual residence. Notwithstanding the fact that jurisdiction  
22 may lie elsewhere for investigation and prosecution of a crime of identity theft, the local  
23 law enforcement agency may take the complaint, issue an incident report, and provide  
24 the complainant with a copy of the report and may refer the report to a law enforcement  
25 agency in that different jurisdiction.

26 (b) Nothing in this section interferes with the discretion of a local law  
27 enforcement agency to allocate resources for investigations of crimes. A complaint filed  
28 or report issued under this section is not required to be counted as an open case for  
29 purposes of compiling open case statistics."

30 **SECTION 4.** Chapter 132 of the General Statutes is amended by adding a  
31 new section to read:

32 **"§ 132-1.8. Social security numbers and other personal identifying information.**

33 (a) The General Assembly finds the following:

34 (1) The social security number can be used as a tool to perpetuate fraud  
35 against a person and to acquire sensitive personal, financial, medical,  
36 and familial information, the release of which could cause great  
37 financial or personal harm to an individual. While the social security  
38 number was intended to be used solely for the administration of the  
39 federal Social Security System, over time this unique numeric  
40 identifier has been used extensively for identity verification purposes  
41 and other legitimate consensual purposes.

42 (2) Although there are legitimate reasons for State and local government  
43 agencies to collect social security numbers and other personal

1 identifying information from individuals, government should collect  
2 the information only for legitimate purposes or when required by law.

3 (3) When State and local government agencies possess social security  
4 numbers or other personal identifying information, the governments  
5 should minimize the instances this information is disseminated either  
6 internally within government or externally with the general public.

7 (b) Except as provided in subsections (c) and (d) of this section, any State or  
8 local government agency, or any agent, employee, or contractor acting on behalf of a  
9 government agency in connection with the performance of any governmental function,  
10 shall not do any of the following:

11 (1) Collect a social security number or any portion thereof of six digits or  
12 more from an individual unless authorized by law to do so or unless  
13 the collection of the social security number is otherwise imperative for  
14 the performance of that agency's duties and responsibilities as  
15 prescribed by law. Social security numbers collected by an agency  
16 must be relevant to the purpose for which collected and shall not be  
17 collected until and unless the need for social security numbers has  
18 been clearly documented.

19 (2) Fail, when collecting a social security number or any portion thereof of  
20 six digits or more from an individual, to segregate that number on a  
21 separate page from the rest of the record, or as otherwise appropriate,  
22 in order that the social security number can be more easily redacted  
23 pursuant to a public records request.

24 (3) Fail, when collecting a social security number or any portion thereof of  
25 six digits or more from an individual, to provide, at the time of or prior  
26 to the actual collection of the social security number by that agency,  
27 that individual, upon request, with a statement of the purpose or  
28 purposes for which the social security number is being collected and  
29 used.

30 (4) Use the social security number or any portion thereof of six digits or  
31 more for any purpose other than the purpose stated.

32 (5) Intentionally communicate or otherwise make available to the general  
33 public a person's social security number or any portion thereof of six  
34 digits or more or other identifying information. "Identifying  
35 information," as used in this section, shall have the same meaning as in  
36 G.S. 14-113.20(b), except it shall not include electronic identification  
37 names, including electronic mail addresses, or parent's legal surname  
38 prior to marriage.

39 (6) Intentionally print or imbed an individual's social security number or  
40 any portion thereof of six digits or more on any card required for the  
41 individual to access government services.

42 (7) Require an individual to transmit the individual's social security  
43 number or any portion thereof of six digits or more over the Internet,

- 1           unless the connection is secure or the social security number is  
2           encrypted.
- 3           (8)   Require an individual to use the individual's social security number or  
4           any portion thereof of six digits or more to access an Internet Web site,  
5           unless a password or unique personal identification number or other  
6           authentication device is also required to access the Internet Web site.
- 7           (9)   Print an individual's social security number or any portion thereof of  
8           six digits or more on any materials that are mailed to the individual,  
9           unless state or federal law required that the social security number be  
10          on the document to be mailed.
- 11       (c)   Subsection (b) of this section does not apply in the following circumstances:
- 12           (1)   To social security numbers and identifying information disclosed to  
13           another governmental entity or its agents, employees, or contractors if  
14           disclosure is necessary for the receiving entity to perform its duties and  
15           responsibilities. The receiving governmental entity and its agents,  
16           employees, and contractors shall maintain the confidential and exempt  
17           status of such numbers.
- 18           (2)   To social security number or other identifying information disclosed  
19           pursuant to a court order, warrant, or subpoena.
- 20           (3)   To social security numbers or other identifying information disclosed  
21           for public health purposes pursuant to and in compliance with Chapter  
22           130A of the General Statutes.
- 23           (4)   To certified copies of vital records issued by the State Registrar and  
24           other authorized officials pursuant to G.S. 130A-93(c). The State  
25           Registrar may disclose any identifying information other than social  
26           security number on any uncertified vital record.
- 27           (5)   To any recorded document in the official records of the county.
- 28           (6)   To any document filed in the official records of the courts.
- 29       (d)   No State or local government agency shall deny a representative of a news  
30       media company as defined in G.S. 8-53.11(a)(3) access to identifying information if (i)  
31       the news media company will use the identifying information in the normal course of  
32       business for legitimate business purposes and (ii) the news media company makes a  
33       verified written request for the identifying information, legibly signed by an authorized  
34       officer, employee, or agent of the company. The verified request must contain the news  
35       media company's name, business mailing and location addresses, business telephone  
36       number, and a statement of the specific purposes for which it needs the identifying  
37       information and how the identifying information will be used for legitimate business  
38       purposes. A State or local government agency may request any other information as  
39       may be reasonably necessary to verify the identity of the news media company  
40       requesting the identifying information and the specific purposes for which the  
41       information will be used; however, an agency has no specific duty to inquire beyond the  
42       information contained in the verified written request. A legitimate business purpose  
43       includes use in matching, verifying, or retrieving information and in research activities.  
44       A legitimate business purpose shall not include the bulk sale or rental of identifying

1 information to the general public. Any person who makes a false representation in order  
2 to obtain identifying information pursuant to this subsection is guilty of a Class F  
3 felony. For purposes of this subsection only, 'identifying information' shall not include  
4 social security number.

5 (e) No person preparing or filing a document to be recorded or filed in the  
6 official records by the register of deeds or of the courts may include any person's social  
7 security, drivers license, state identification, passport, checking account, savings  
8 account, credit card, or debit card number, or personal identification (PIN) code or  
9 passwords in that document, unless otherwise expressly required by law or court order  
10 or adopted by the State Registrar on records of vital events. Any loan closing instruction  
11 that requires the inclusion of a person's social security number on a document to be  
12 recorded shall be void. Any person who violates this subsection shall be guilty of an  
13 infraction, punishable by a fine not to exceed five hundred dollars (\$500.00) for each  
14 violation.

15 (f) Any person or the person's attorney-in-fact or legal guardian has the right to  
16 request that a register of deeds or clerk of court remove, from an image or copy of an  
17 official record placed on a register of deeds' or court's publicly available Internet  
18 website or a publicly available Internet Web site used by a register of deeds or court to  
19 display public records by the register of deeds or clerk of court, the person's social  
20 security, drivers license, state identification, passport, checking account, savings  
21 account, credit card, or debit card number, or personal identification (PIN) code or  
22 passwords contained in that official record. The request must be made in writing,  
23 legibly signed by the requester, and delivered by mail, facsimile, or electronic  
24 transmission, or delivered in person to the register of deeds or clerk of court. The  
25 request must specify the identification page number that contains the social security,  
26 drivers license, state identification, passport, checking account, savings account, credit  
27 card, or debit card number, or personal identification (PIN) code or passwords to be  
28 redacted. The register of deeds or clerk of court shall have no duty to inquire beyond the  
29 written request to verify the identity of a person requesting redaction. No fee will be  
30 charged for the redaction pursuant to such request.

31 (g) A register of deeds or clerk of court shall immediately and conspicuously post  
32 signs throughout his or her offices for public viewing and shall immediately and  
33 conspicuously post a notice on any Internet Web site or remote electronic site made  
34 available by the register of deeds or clerk of court and used for the ordering or display  
35 of official records or images or copies of official records a notice, stating, in  
36 substantially similar form, the following:

37 (1) Any person preparing or filing a document for recordation or filing in  
38 the official records may not include a social security, drivers license,  
39 state identification, passport, checking account, savings account, credit  
40 card, or debit card number, or personal identification (PIN) code or  
41 passwords in the document, unless expressly required by law.

42 (2) Any person has a right to request a register of deeds or clerk of court to  
43 remove, from an image or copy of an official record placed on a  
44 register of deeds' or clerk of court's publicly available Internet Web

1 site or on a publicly available Internet Web site used by a register of  
2 deeds or clerk of court to display public records, any social security,  
3 drivers license, state identification, passport, checking account, savings  
4 account, credit card, or debit card number, or personal identification  
5 (PIN) code or passwords contained in an official record. The request  
6 must be made in writing and delivered by mail, facsimile, or electronic  
7 transmission, or delivered in person, to the register of deeds or clerk of  
8 court. The request must specify the identification page number that  
9 contains the social security, drivers license, state identification,  
10 passport, checking account, savings account, credit card, or debit card  
11 number, or personal identification (PIN) code or passwords to be  
12 redacted. No fee will be charged for the redaction pursuant to such a  
13 request.

14 (h) Any affected person may petition the court for an order directing compliance  
15 with this section. No liability shall accrue to a register of deeds or clerk of court or to  
16 his or her agent for any claims or damages that might result from a social security  
17 number or other identifying information on the public record."

18 **SECTION 5.** Chapter 120 of the General Statutes is amended by adding a  
19 new Article to read:

20 "Article 30.

21 "Miscellaneous.

22 **"§ 120-61. Report by State agencies to the General Assembly on ways to reduce**  
23 **incidence of identity theft.**

24 Agencies of the State shall evaluate and report annually by January 1 to the General  
25 Assembly about the agency's efforts to reduce the dissemination of personal identifying  
26 information, as defined in G.S. 14-113.20(b). The evaluation shall include the review of  
27 public forms, the use of random personal identification numbers, restriction of access to  
28 personal identifying information, and reduction of use of personal identifying  
29 information when it is not necessary. Special attention shall be given to the use,  
30 collection, and dissemination of social security numbers. If the collection of a social  
31 security number is found to be unwarranted, the State agency shall immediately  
32 discontinue the collection of social security numbers for that purpose."

33 **SECTION 6.** G.S. 14-113.20 reads as rewritten:

34 **"§ 14-113.20. Financial identity fraud. Identity theft.**

35 (a) A person who knowingly obtains, possesses, or uses identifying information  
36 of another person, living or dead, with the intent to fraudulently represent that the  
37 person is the other person for the purposes of making financial or credit transactions in  
38 the other person's name, to obtain anything of value, benefit, or advantage, or for the  
39 purpose of avoiding legal consequences is guilty of a felony punishable as provided in  
40 G.S. 14-113.22(a).

41 (b) The term "identifying information" as used in this Article includes the  
42 following:

- 43 (1) Social security numbers.
- 44 (2) Drivers ~~license~~-license, State identification card, or passport numbers.

- 1 (3) Checking account numbers.
- 2 (4) Savings account numbers.
- 3 (5) Credit card numbers.
- 4 (6) Debit card numbers.
- 5 (7) Personal Identification (PIN) Code as defined in G.S. 14-113.8(6).
- 6 (8) Electronic identification ~~numbers~~numbers, electronic mail, Internet
- 7 accounts, or Internet identification.
- 8 (9) Digital signatures.
- 9 (10) Any other numbers or information that can be used to access a person's
- 10 financial resources.
- 11 (11) Biometric data.
- 12 (12) Fingerprints.
- 13 (13) Passwords.
- 14 (14) Parent's legal surname prior to marriage.

15 (c) It shall not be a violation under this Article for a person to do any of the  
16 following:

- 17 (1) Lawfully obtain credit information in the course of a bona fide
- 18 consumer or commercial transaction.
- 19 (2) Lawfully exercise, in good faith, a security interest or a right of offset
- 20 by a creditor or financial institution.
- 21 (3) Lawfully comply, in good faith, with any warrant, court order, levy,
- 22 garnishment, attachment, or other judicial or administrative order,
- 23 decree, or directive, when any party is required to do so."

24 **SECTION 7.** The Revisor of Statutes shall make the following technical and  
25 conforming corrections:

- 26 (1) Rename Article 19C of Chapter 14 of the General Statutes from
- 27 "Financial Identity Fraud" to "Identity Theft."
- 28 (2) Replace the phrase "financial identity fraud" with the phrase "identity
- 29 theft" wherever the terms appear throughout Article 19C of Chapter 14
- 30 of the General Statutes.

31 **SECTION 8.** G.S. 15A-147 reads as rewritten:

32 "**§ 15A-147. Expunction of records when charges are dismissed or there are**  
33 **findings of not guilty as a result of identity ~~fraud~~theft.**

34 (a) If any person is named in a charge for an infraction or a crime, either a  
35 misdemeanor or a felony, as a result of another person using the identifying information  
36 of the named person ~~to commit an infraction or crime~~ and the charge against the named  
37 person is dismissed, a finding of not guilty is entered, or the conviction is set aside, the  
38 named person may apply by petition or written motion to the court where the charge  
39 was last pending on a form approved by the Administrative Office of the Courts  
40 supplied by the clerk of court for an order to expunge from all official records any  
41 entries relating to the person's apprehension, charge, or trial. The court, after notice to  
42 the district attorney, shall hold a hearing on the motion or petition and, upon finding that  
43 the person's identity was used without permission and the charges were dismissed or the  
44 person was found not guilty, the court shall order the expunction."

1           **SECTION 9.** G.S. 1-539.2C reads as rewritten:

2   "**§ 1-539.2C. Damages for identity ~~fraud~~,theft.**

3       (a) Any person whose property or person is injured by reason of an act made  
4 unlawful by Article 19C of Chapter 14 of the General Statutes may sue for civil  
5 damages. Damages may be in an amount of up to five thousand dollars (\$5,000) but no  
6 less than five hundred dollars (\$500.00) for each incident, or three times the amount of  
7 actual damages, whichever amount is greater. A person seeking damages as set forth in  
8 this section may also institute a civil action to enjoin and restrain future acts that would  
9 constitute a violation of this section. The court, in an action brought under this section,  
10 may award reasonable attorneys' fees to the prevailing party."

11           **SECTION 10.** The provisions of this act are severable. If any phrase, clause,  
12 sentence, provision, or section is declared to be invalid or preempted by federal law or  
13 regulation, the validity of the remainder of this act shall not be affected thereby.

14           **SECTION 11.** G.S. 75-62(a)(2), (3), (4), and (5), as enacted in Section 1 of  
15 this act, become effective October 1, 2006. G.S. 132-1.8(b)(6), (7), (8), and (9), as  
16 enacted in Section 4 of this act, become effective July 1, 2007. Section 6 of this act  
17 becomes effective December 1, 2005, and applies to offenses committed, and to causes  
18 of action arising, on or after that date. The remainder of this act becomes effective  
19 October 1, 2005.