

ASSEMBLY, No. 2338

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

SYNOPSIS

Directs Attorney General to develop guidelines for positive identification of suspects before release.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning criminal identity theft and supplementing Title
2 52 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

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7 1. The Legislature finds and declares that:

8 a. Identity theft is one of the fastest growing crimes nationally
9 and in this State.

10 b. Identity theft is particularly insidious to victims who often
11 spend years after it occurred dealing with the bureaucracy necessary
12 to clear their good names and records.

13 c. To address the growing problem of identity theft, the
14 Legislature passed the "Identity Theft Prevention Act," P.L.2005,
15 c.226 (C.56:11-44 et al.). This act focuses on identity crimes
16 involving the interception of personal financial data or the
17 fraudulent acquisition of credit cards or other financial products in
18 another person's name.

19 d. While this type of "financial identity theft" receives much
20 public attention, another type of identity theft that also poses grave
21 consequences to its victims is "criminal identity theft."

22 e. Criminal identity theft occurs when a criminal suspect
23 provides a law enforcement officer during an investigation or arrest
24 with another person's name and personal information, such as a
25 driver's license, whether valid or counterfeit, birth date, or social
26 security number. For example, a suspect may present to law
27 enforcement a relative's driver's license. The suspect is released,
28 but the law enforcement agency has the victim's information, not
29 the suspect's.

30 f. The following negative consequences suffered by innocent
31 victims of criminal identity theft can be grave:

32 (1) When the suspect fails to appear in court, a bench warrant
33 will be issued, but for the victim whose name and personal
34 information was given, rather than the suspect. An unsuspecting
35 victim may be stopped for a routine traffic violation and be arrested
36 based on the outstanding warrant.

37 (2) Alternatively, the arrestee appears in court and pleads guilty
38 to the charge. The victims may never know unless their driver's
39 license is suspended, they are subsequently denied a license or
40 employment, or they are terminated from employment because their
41 information has been included in state, and possibly, national
42 criminal databases.

43 In either case, it is the victims who are burdened with the
44 responsibility of establishing innocence, clearing their name, and
45 dealing with the significant inconvenience of correcting their
46 criminal records. And while victims may be successful in clearing
47 their criminal records, private entities who aggregate data may

1 continue to maintain the incorrect information necessitating further
2 action.

3 g. In this State, upon arrest for an indictable offense, adult
4 suspects under R.S.53:1-15 and juvenile suspects under section 2 of
5 P.L.1982, c.79 (C.2A:4A-61) are required to provide authorities
6 with fingerprints. Local police departments in most municipalities
7 have the capability to send these fingerprints directly to the State
8 Police to determine whether the suspect has a prior conviction. A
9 fingerprint match would foil a previously convicted suspect's
10 attempt to pass off another person's personal information.

11 h. But detection of criminal identity theft is more problematic
12 when the suspect has no fingerprints on file or is arrested for a
13 lesser criminal offense, such as a disorderly persons offense, or for
14 the quasi-criminal offense of drunk driving. While local law
15 enforcement officers are undoubtedly taking additional steps to
16 confirm the identities of suspects, the Legislature finds and declares
17 that the increase in the number of victims of criminal identity theft
18 necessitates an official Statewide policy to address the problem.

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20 2. The Attorney General shall promulgate guidelines setting
21 forth mandatory procedures to be followed by local police
22 departments to enhance their ability to positively identify suspects
23 before they are released. The guidelines shall be disseminated to
24 local police departments within 120 days of the effective date of
25 this act.

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27 3. This act shall take effect immediately, but the Attorney
28 General may take advance anticipatory administrative action as
29 necessary to implement this act.

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STATEMENT

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34 This bill requires the Attorney General to promulgate guidelines
35 setting forth mandatory procedures to be followed by local police
36 departments to enhance their ability to positively identify suspects
37 before they are released. The purpose of the guidelines is to address
38 the growing problem of "criminal identity theft."

39 Criminal identity theft occurs when a criminal suspect provides a
40 law enforcement officer during an investigation or arrest with
41 another person's name and personal information, such as a driver's
42 license, whether valid or counterfeit, birth date, or social security
43 number. The suspect is released, but the law enforcement agency
44 has the victim's information, not the suspect's. As a result,
45 unsuspecting victims whose information has been stolen may be
46 arrested, have their driver's license suspended, or be denied a
47 professional license or employment based on a criminal history
48 record they didn't know they had.