

ASSEMBLY, No. 2436

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 3, 2020

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

SYNOPSIS

Allows identity theft victims to petition for judicial determination of factual innocence.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning identity theft and supplementing Title 2C of the
2 New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. A person who reasonably believes that he is the victim of
8 identity theft in violation of N.J.S.2C:21-1, section 1 of P.L.1983,
9 c.565 (C.2C:21-2.1) or N.J.S.2C:21-17 may petition a court, or the
10 court, on its own motion or upon application of the prosecuting
11 attorney, may move for an expedited judicial determination of his
12 factual innocence, where a defendant was charged with, arrested for
13 or convicted of a crime under the victim's identity, or where a
14 criminal complaint has been filed against a defendant in the victim's
15 name, or where the victim's identity has been mistakenly associated
16 with a record of criminal conviction. Any judicial determination of
17 factual innocence made pursuant to this section may be heard and
18 determined upon declarations, affidavits, police reports, or other
19 material, relevant and reliable information submitted by the parties
20 or ordered to be part of the record by the court. Where the court
21 determines that the petition or motion is meritorious and that there
22 is no reasonable cause to believe that the victim committed the
23 offense for which a defendant was arrested, charged, convicted, or
24 subject to a criminal complaint in the victim's name, or that the
25 victim's identity has been mistakenly associated with a record of
26 criminal conviction, the court shall find the victim factually
27 innocent of that offense. If the victim is found factually innocent,
28 the court shall issue an order certifying this determination.

29 b. After a court has issued a determination of factual innocence
30 pursuant to this section, the court may order the name and
31 associated personal identifying information contained in court
32 records, files, and indexes accessible by the public be deleted,
33 sealed, or labeled to show that the data is impersonated and does
34 not reflect the defendant's identity.

35 c. Upon making a determination of factual innocence, the court
36 shall provide the victim written documentation of the order.

37 d. A court that has issued a determination of factual innocence
38 pursuant to this section may at any time vacate that determination if
39 the petition, or any information submitted in support of the petition,
40 is found to contain any material misrepresentation or fraud.

41 e. The Administrative Office of the Courts shall develop a
42 form for use in issuing an order pursuant to this section.

43 f. The Administrative Office of the Courts shall establish and
44 maintain a database of persons who have been victims of identity
45 theft and that have received determinations of factual innocence.
46 The Administrative Office of the Courts shall provide a victim of
47 identity theft or his authorized representative access to the database
48 in order to establish that the person has been a victim of identity

1 theft. Access to the database shall be limited to criminal justice
2 agencies, victims of identity theft, and any other persons and
3 agencies authorized by the victims.

4 g. The Administrative Office of the Courts shall establish and
5 maintain a toll free number to provide access to information under
6 subsection f. of this section.

7 h. In order for a victim of identity theft to be included in the
8 database established pursuant to subsection f. of this section, he
9 shall submit to the Administrative Office of the Courts a court
10 order, a full set of fingerprints and any other information prescribed
11 by the Administrative Office of the Courts.

12 i. Upon receiving information pursuant to subsection h. of this
13 section, the Administrative Office of the Courts shall verify the
14 identity of the victim against any driver's license or other
15 identification record maintained by the New Jersey Motor Vehicle
16 Commission.

17
18 2. This act shall take effect immediately.
19
20

21 STATEMENT

22
23 This bill would establish a procedure whereby a victim of
24 identity theft could obtain a factual determination of innocence.

25 Under the provisions of the bill, a person who reasonably
26 believes that he or she is a victim of identity theft, or the court on
27 its motion or upon application by the prosecuting attorney, may
28 move for an expedited judicial determination of the victim's factual
29 innocence if a defendant has been arrested for, charged with or
30 convicted of a crime under the victim's identity or where a criminal
31 complaint has been filed against a defendant in the victim's name or
32 if the victim's identity has been mistakenly associated with a
33 record of criminal conviction. If the court determines that the
34 petition or motion is meritorious and that the victim has not
35 committed the offense, the court shall issue a judicial determination
36 of factual innocence. After an order has been issued, the court may
37 order that the name and personal identifying information of the
38 victim contained in court records, files and indexes be deleted,
39 sealed or labeled to show that the data is impersonated and does not
40 reflect the defendant's identity.

41 This bill would also require the Administrative Office of the
42 Courts (AOC) to establish and maintain a database of persons who
43 have been victims of identity theft and who have received
44 determinations of factual innocence. Access to the database would
45 be limited to criminal justice agencies, victims of identity theft, and
46 any other persons and agencies authorized by the victims. The
47 AOC would also be required to establish a toll free number to
48 provide access to information to victims of identity theft.