

BILL HISTORY FOR ASSEMBLY BILL 288 (LRB -1585)

An Act to renumber and amend 343.237 (1) (a), 943.201 (1) (a) and 943.201 (2); to amend 343.237 (3) (intro.), 343.237 (3) (b), 343.237 (3) (c) (intro.), 343.237 (4) (intro.), 343.237 (4) (a), 343.237 (4) (b), 895.80 (1), 939.03 (1) (intro.) and (a) to (c), 943.201 (title), 946.82 (4), 970.03 (11) and 970.03 (13); and to create 196.23, 343.237 (1) (ag), 343.237 (3) (e), 939.03 (1) (e), 939.32 (1) (f), 943.201 (1) (a) 1., 943.201 (1) (a) 2., 943.201 (1) (a) 3., 943.201 (1) (b) 10. to 15., 943.201 (2) (a), (b) and (c), 943.201 (3) and (4), 943.203, 946.79, 971.19 (11), 971.366 and 971.367 of the statutes; relating to:

identity theft, unlawful use of an entity's identification documents or identifying information, false statements to financial institutions, and access by law enforcement agencies to driver's license and state identification card photographs and providing penalties. (FE)

2003

04-23. A. Introduced by Representatives Gundrum, Staskunas, Schneider, Musser, M. Lehman, Krawczyk, Suder, Olsen, Albers, Seratti, Pettis, Hahn, Freese, McCormick, Ott, Hines, Ladwig, Hundertmark, Gielow, Gottlieb, Vrakas, Nischke, Plouff, Rhoades, Van Roy, Bies and Gunderson; cosponsored by Senators Darling, Erpenbach, Lazich, Carpenter, Stepp, Hansen and Roessler.

04-23. A. Read first time and referred to committee on Judiciary 164

04-24. A. Public hearing held.

04-25. A. Fiscal estimate received.

05-01. A. Assembly amendment 1 offered by Representative Staskunas (LRB a0461) 178

05-01. A. Executive action taken.

05-01. A. Assembly amendment 1 to Assembly amendment 1 offered by committee on Judiciary (LRB a0494) 203

05-01. A. Assembly amendment 2 offered by committee on Judiciary (LRB a0487) 203

05-07. A. Fiscal estimate received.

05-07. A. Fiscal estimate received.

05-13. A. Report Assembly Amendment 2 adoption recommended by committee on Judiciary, Ayes 8, Noes 0 205

05-13. A. Report passage as amended recommended by committee on Judiciary, Ayes 8, Noes 0 205

05-13. A. Referred to committee on Rules 205

05-22. A. Placed on calendar 5-29-2003 by committee on Rules.

05-29. A. Read a second time 225

05-29. A. Assembly amendment 2 adopted 225

05-29. A. Ordered to a third reading 225

05-29. A. Rules suspended 225

05-29. A. Read a third time and passed, Ayes 95, Noes 0 225

05-29. A. Ordered immediately messaged 225

05-30. S. Received from Assembly 202

05-30. S. Read first time and referred to committee on Judiciary, Corrections and Privacy 203

06-10. S. Public hearing held.

06-12. S. Executive action taken.

06-16. S. Report introduction and adoption of Senate Amendment 1 recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0 (LRB a0628) 223

06-16. S. Report concurrence as amended recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0 223

06-16. S. Available for scheduling.

06-23. S. Placed on calendar 6-24-2003 by committee on Senate Organization.

06-24. S. Read a second time 254

06-24. S. Senate amendment 1 adopted 254

06-24. S. Ordered to a third reading 254

06-24. S. Rules suspended 254

06-24. S. Read a third time and concurred in as amended 254

06-24. S.	Ordered immediately messaged	254
06-25. A.	Received from Senate amended and concurred in as amended (Senate amendment 1 adopted)	286
06-25. A.	Senate amendment 1 concurred in	286
06-25. A.	Action ordered immediately messaged	286

2003
ENROLLED BILL

03en AB-288

ADOPTED DOCUMENTS:

Orig Engr SubAmdt

03-1585/1

Amendments to above (if none, write "NONE"): AA2 SA1

Corrections - show date (if none, write "NONE"): None

Topic Identity Theft

6/26/03 [Signature]
Date Enrolling Drafter

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2003 ASSEMBLY BILL 288

April 23, 2003 – Introduced by Representatives GUNDRUM, STASKUNAS, SCHNEIDER, MUSSER, M. LEHMAN, KRAWCZYK, SUDER, OLSEN, ALBERS, SERATTI, PETTIS, HAHN, FREESE, MCCORMICK, OTT, HINES, LADWIG, HUNDERTMARK, GIELOW, GOTTLIEB, VRAKAS, NISCHKE, PLOUFF, RHOADES, VAN ROY, BIES and GUNDERSON, cosponsored by Senators DARLING, ERPENBACH, LAZICH, CARPENTER, STEPP, HANSEN and ROESSLER. Referred to Committee on Judiciary.

1 **AN ACT to renumber and amend** 343.237 (1) (a), 943.201 (1) (a) and 943.201 (2);
2 **to amend** 343.237 (3) (intro.), 343.237 (3) (b), 343.237 (3) (c) (intro.), 343.237
3 (4) (intro.), 343.237 (4) (a), 343.237 (4) (b), 895.80 (1), 939.03 (1) (intro.) and (a)
4 to (c), 943.201 (title), 946.82 (4), 970.03 (11) and 970.03 (13); and **to create**
5 196.23, 343.237 (1) (ag), 343.237 (3) (e), 939.03 (1) (e), 939.32 (1) (f), 943.201 (1)
6 (a) 1., 943.201 (1) (a) 2., 943.201 (1) (a) 3., 943.201 (1) (b) 10. to 15., 943.201 (2)
7 (a), (b) and (c), 943.201 (3) and (4), 943.203, 946.79, 971.19 (11), 971.366 and
8 971.367 of the statutes; **relating to:** identity theft, unlawful use of an entity's
9 identification documents or identifying information, false statements to
10 financial institutions, and access by law enforcement agencies to driver's
11 license and state identification card photographs and providing penalties.

Analysis by the Legislative Reference Bureau

Identity theft

Current law prohibits identity theft — the unauthorized use of a personal identification document or personal identifying information of an individual (the

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victim) to obtain credit, money, goods, services, or anything else of value. To convict a person of this offense, the state must show that the defendant falsely represented that he or she was the victim or was acting with the authorization or consent of the victim (the deception element). Under current law, “personal identification document” is defined to mean a birth certificate or a financial transaction card (which itself is defined to include a credit or debit card, a check-cashing card, and an automated teller machine card). Personal identifying information covered by the identity theft prohibition includes an individual’s name, address, telephone number, driver’s license number, social security number, and checking or savings account number; the name of an individual’s employer; and the maiden name of an individual’s mother. A person who commits identity theft may be fined not more than \$10,000 or sentenced to a term of imprisonment (consisting of confinement in state prison followed by a term of extended supervision) of not more than six years, or both.

This bill makes a number of changes related to the crime of identity theft. First, the bill revises the definition of “personal identification document” so that it covers any document containing personal identifying information; an individual’s card or plate, if it can be used to obtain anything of value or benefit or to initiate a transfer of funds; and any other device that is unique to, assigned to, or belongs to an individual and that permits the individual to access services, funds, or benefits. Second, the bill expands the definition of “personal identifying information” so that it covers: 1) an individual’s DNA profile; 2) an individual’s code, account number, identification number, or any other means of account access that can be used to obtain anything of value or benefit or to initiate a transfer of funds; 3) biometric data (such as a fingerprint, a voice print, or a retina or iris image); 4) any other information or data that is unique to, assigned to, or belongs to an individual and that permits the individual to access services, funds, or benefits; and 5) any other information that can be associated with a particular individual through one or more identifiers or other information or circumstances. Third, the bill specifies that the prohibition on identity theft applies to a personal identification document or personal identifying information relating to a deceased individual.

Fourth, the bill expands the scope of the prohibition to cover the unauthorized use of an individual’s personal identification document or personal identifying information to harm the reputation, property, or person of the individual; to harm the individual’s estate if he or she is deceased; to avoid delivery of a summons, subpoena, or similar court paper; or to avoid a penalty imposed by a court. The bill also prohibits a person from possessing a personal identification document or personal identifying information with intent to use it for one of those purposes or to obtain something of value. Fifth, the bill specifies that the state may prove the deception element by proving that a defendant falsely represented that the personal identification document or personal identifying information was his or her own.

Unauthorized use of an entity’s identifying documents or information

The bill creates a new crime, prohibiting the unauthorized use of identifying documents or information relating to a corporation, partnership, association, government, or government agency (an entity). The elements of and the maximum penalty for this offense are essentially the same as those for identity theft, with two

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exceptions. First, information that relates to an individual but not to an entity (such as a driver's license number, a social security number, or a DNA profile) is not covered by the term "identifying information" for the purposes of this new crime. Second, the prohibition relating to entities does not apply to conduct undertaken for the sole purpose of avoiding delivery of a court document or avoiding a penalty imposed by a court. The bill also permits an entity that is the victim of this offense to bring a civil action against the person committing it in the same way that current law allows victims of identity theft to bring such an action.

Jurisdiction, venue, and procedure for identity theft and unauthorized use of entity-identifying documents or information

Under current law, a person may be prosecuted and punished for a crime under Wisconsin law if, among other things: 1) the person commits a crime and any elements of the crime occur in this state; or 2) while out of this state, the person does an act with intent that it cause, within the state, a consequence set forth in a law defining a crime. This bill specifies that a person may be prosecuted and punished for identity theft if the victim is a Wisconsin resident and for unauthorized use of an entity's identifying documents or information if the entity is located in Wisconsin. The bill also specifies that the case may be brought in the county in which the victim resides, if the victim is an individual, or is located, if the victim is an entity, or in any other county in which the case may otherwise be brought under current law. In addition, the bill permits more frequent use of hearsay and telephonic or televised testimony at preliminary hearings in such cases.

Utility service for victims of identity theft

The bill allows an individual who is a victim of identity theft to obtain service from a public utility if the individual is unable to obtain that service solely because of the identity theft. If the individual furnishes the public utility with an affidavit and law enforcement agency report regarding the identity theft, and if the individual otherwise qualifies for the service, the public utility must provide the service, unless the public utility contests the accuracy of the affidavit or report by filing a petition with the Public Service Commission (PSC). In such a case, the PSC must investigate the petition and may hold a hearing on the matter. Unless the PSC determines that the identity theft did not occur, the public utility must provide the service.

False statements to financial institutions

Current law prohibits making false statements for the purpose of obtaining a financial transaction card. A person who violates that prohibition may be fined not more than \$10,000 or sentenced to the county jail for not more than nine months or both. This bill prohibits certain deceptive activities undertaken in connection with a transaction with a financial institution. The prohibited activities include: 1) falsifying or concealing an individual's identity; 2) making a false statement regarding an individual's identity; 3) making or using a writing that contains false information regarding an individual's identity; or 4) using a false personal identification document or false personal identifying information. A person who violates this prohibition may be fined not more than \$10,000 or sentenced to a term of imprisonment of up to six years or both.

ASSEMBLY BILL 288***Law enforcement agency access to driver's license photographs***

With limited exceptions, current law requires the Department of Transportation (DOT) to take a photograph of all applicants for a driver's license or state identification card. DOT may keep copies of the photographs for its own use but generally must keep the photographs confidential. DOT, however, may release a photograph to the individual whose photograph was taken. In addition, DOT may release a copy of a photograph taken on or after September 1, 1997, to a Wisconsin law enforcement agency if the agency submits a written request specifying the name of the person whose photograph is requested and stating that the photograph is requested for the purpose of investigating unlawful activity, looking for a missing person, or identifying an accident victim or a deceased person. DOT may also provide a copy of such a photograph to a law enforcement agency of a physically adjacent state if the agency makes a written request in the same manner as a Wisconsin law enforcement agency and if the physically adjacent state provides Wisconsin law enforcement agencies with access to photographs taken for that state's driver's licenses and state identification cards. A law enforcement agency that receives a copy of a photograph from DOT must keep it confidential.

This bill allows DOT to release a copy of a photograph to any state or federal law enforcement agency if the law enforcement agency makes a written request in the same manner as a Wisconsin law enforcement agency. The same restrictions regarding the use and possession of a released photograph that apply to Wisconsin law enforcement agencies also apply to the other state's law enforcement agency or the federal law enforcement agency requesting the photograph from DOT.

Additional information

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 196.23 of the statutes is created to read:
- 2 **196.23 Utility service for victims of misappropriated identifying**
- 3 **information.** (1) If an individual uses personal identifying information of another
- 4 individual, without the authorization or consent of the other individual, to apply for
- 5 and receive service from a public utility and, as a result, the individual whose
- 6 personal identifying information was used without authorization or consent is

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1 unable to obtain service from the public utility, the utility shall provide service to that
2 individual if all of the following apply:

3 (a) The individual furnishes the public utility an affidavit indicating that to the
4 best of the individual's knowledge his or her personal identifying information was
5 used by another individual, without the authorization or consent of the affiant, to
6 obtain the utility service.

7 (b) The individual furnishes the public utility a copy of a law enforcement
8 agency report, based on the individual's report to the law enforcement agency of the
9 use by another individual of his or her personal identifying information without
10 authorization or consent to obtain utility service.

11 (c) The individual otherwise qualifies to receive the service from the utility.

12 (2) A public utility may contest the accuracy of an affidavit or report furnished
13 by an individual under sub. (1) (a) or (b) by petitioning for a summary investigation
14 under s. 196.28 (1). If a petition is filed, the commission shall conduct a summary
15 investigation. If a hearing is held under s. 196.28 (2) and the commission determines
16 that the conditions of sub. (1) (intro.) have not been met, the public utility is not
17 required to provide utility service under this section to the individual.

18 **SECTION 2.** 343.237 (1) (a) of the statutes is renumbered 343.237 (1) (ar) and
19 amended to read:

20 343.237 (1) (ar) "Law enforcement agency of ~~a physically adjacent~~ another
21 state" ~~has the meaning given in s. 175.46 (1) (b)~~ means a governmental unit of one
22 or more persons employed by a state other than this state or by a political subdivision
23 of a state other than this state for the purpose of preventing and detecting crime and
24 enforcing laws or ordinances of that state or a political subdivision of that state,

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1 employees of which unit are authorized to make arrests for crimes while acting
2 within the scope of their authority.

3 **SECTION 3.** 343.237 (1) (ag) of the statutes is created to read:

4 343.237 (1) (ag) “Federal law enforcement agency” means a governmental unit
5 of one or more persons employed by the federal government for the purpose of
6 preventing and detecting crime and enforcing federal laws, employees of which unit
7 are authorized to make arrests for crimes while acting within the scope of their
8 authority.

9 **SECTION 4.** 343.237 (3) (intro.) of the statutes is amended to read:

10 343.237 (3) (intro.) The department shall provide a Wisconsin law enforcement
11 agency or a federal law enforcement agency with a copy of a photograph taken on or
12 after September 1, 1997, of an applicant under s. 343.14 (3) or 343.50 (4) if the
13 department receives a written request on the Wisconsin law enforcement agency’s
14 letterhead that contains all of the following:

15 **SECTION 5.** 343.237 (3) (b) of the statutes is amended to read:

16 343.237 (3) (b) The name of the person making the request and the Wisconsin
17 law enforcement agency that employs the requester.

18 **SECTION 6.** 343.237 (3) (c) (intro.) of the statutes is amended to read:

19 343.237 (3) (c) (intro.) A statement signed by a division commander or higher
20 authority within the Wisconsin law enforcement agency that the photograph is
21 requested for any of the following purposes:

22 **SECTION 7.** 343.237 (3) (e) of the statutes is created to read:

23 343.237 (3) (e) If the requester is a federal law enforcement agency, a statement
24 that the agency agrees to comply with all of the requirements under this section.

25 **SECTION 8.** 343.237 (4) (intro.) of the statutes is amended to read:

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1 343.237 (4) (intro.) If a law enforcement agency of ~~a physically adjacent~~
2 another state makes a request meeting all the requirements specified for a request
3 by a Wisconsin law enforcement agency or a federal law enforcement agency under
4 sub. (3), the department shall comply with the request if all of the following apply:

5 **SECTION 9.** 343.237 (4) (a) of the statutes is amended to read:

6 343.237 (4) (a) The law enforcement agency of the ~~physically adjacent~~ other
7 state agrees to comply with all of the requirements under this section.

8 **SECTION 10.** 343.237 (4) (b) of the statutes is amended to read:

9 343.237 (4) (b) The ~~physically adjacent~~ other state allows Wisconsin law
10 enforcement agencies similar or greater access to similar information from that
11 ~~physically adjacent~~ state.

12 **SECTION 11.** 895.80 (1) of the statutes is amended to read:

13 895.80 (1) Any person who suffers damage or loss by reason of intentional
14 conduct that occurs on or after November 1, 1995, and that is prohibited under s.
15 943.01, 943.20, 943.21, 943.24, 943.26, 943.34, 943.395, 943.41, 943.50, 943.61,
16 943.74, or 943.76, or by reason of intentional conduct that occurs on or after April 28,
17 1998, and that is prohibited under s. 943.201 or 943.203, has a cause of action against
18 the person who caused the damage or loss.

19 **SECTION 12.** 939.03 (1) (intro.) and (a) to (c) of the statutes are amended to read:

20 939.03 (1) (intro.) A person is subject to prosecution and punishment under the
21 law of this state if any of the following applies:

22 (a) The person commits a crime, any of the constituent elements of which takes
23 place in this state; ~~or~~.

24 (b) While out of this state, the person aids and abets, conspires with, or advises,
25 incites, commands, or solicits another to commit a crime in this state; ~~or~~.

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1 (c) While out of this state, the person does an act with intent that it cause in
2 this state a consequence set forth in a section defining a crime; or,

3 **SECTION 13.** 939.03 (1) (e) of the statutes is created to read:

4 939.03 (1) (e) The person violates s. 943.201 or 943.203 and the victim is an
5 individual who resides in this state, a deceased individual who resided in this state
6 immediately before his or her death, or an entity, as defined in s. 943.203 (1) (a), that
7 is located in this state.

8 **SECTION 14.** 939.32 (1) (f) of the statutes is created to read:

9 939.32 (1) (f) Whoever attempts to commit a crime under s. 946.79 is subject
10 to the penalty provided in that section for the completed act.

11 **SECTION 15.** 943.201 (title) of the statutes is amended to read:

12 **943.201 (title) ~~Misappropriation~~ Unauthorized use of an individual's**
13 **personal identifying information or personal identification documents.**

14 **SECTION 16.** 943.201 (1) (a) of the statutes is renumbered 943.201 (1) (a) (intro.)
15 and amended to read:

16 943.201 (1) (a) (intro.) "Personal identification document" means ~~a birth~~
17 ~~certificate or a financial transaction card, as defined in s. 943.41 (1) (em).~~ any of the
18 following:

19 **SECTION 17.** 943.201 (1) (a) 1. of the statutes is created to read:

20 943.201 (1) (a) 1. A document containing personal identifying information.

21 **SECTION 18.** 943.201 (1) (a) 2. of the statutes is created to read:

22 943.201 (1) (a) 2. An individual's card or plate, if it can be used, alone or in
23 conjunction with another access device, to obtain money, goods, services, or any other
24 thing of value or benefit, or if it can be used to initiate a transfer of funds.

25 **SECTION 19.** 943.201 (1) (a) 3. of the statutes is created to read:

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1 943.201 (1) (a) 3. Any other device that is unique to, assigned to, or belongs to
2 an individual and that is intended to be used to access services, funds, or benefits of
3 any kind to which the individual is entitled.

4 **SECTION 20.** 943.201 (1) (b) 10. to 15. of the statutes are created to read:

5 943.201 (1) (b) 10. An individual's taxpayer identification number.

6 11. An individual's deoxyribonucleic acid profile, as defined in s. 939.74 (2d) (a).

7 12. Any of the following, if it can be used, alone or in conjunction with any access
8 device, to obtain money, goods, services, or any other thing of value or benefit, or if
9 it can be used to initiate a transfer of funds:

10 a. An individual's code or account number.

11 b. An individual's electronic serial number, mobile identification number,
12 personal identification number, or other telecommunications service, equipment, or
13 instrument identifier.

14 c. Any other means of account access.

15 13. An individual's unique biometric data, including fingerprint, voice print,
16 retina or iris image, or any other unique physical representation.

17 14. Any other information or data that is unique to, assigned to, or belongs to
18 an individual and that is intended to be used to access services, funds, or benefits of
19 any kind to which the individual is entitled.

20 15. Any other information that can be associated with a particular individual
21 through one or more identifiers or other information or circumstances.

22 **SECTION 21.** 943.201 (2) of the statutes, as affected by 2001 Wisconsin Act 109,
23 is renumbered 943.201 (2) (intro.) and amended to read:

24 943.201 (2) (intro.) Whoever, for any of the following purposes, intentionally
25 uses or, attempts to use, or possesses with intent to use any personal identifying

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1 information or personal identification document of an individual ~~to obtain credit,~~
2 ~~money, goods, services or anything else of value, including a deceased individual,~~
3 without the authorization or consent of the individual and by representing that he
4 or she is the individual ~~or, that he or she is acting with the authorization or consent~~
5 ~~of the individual, or that the information or document belongs to him or her~~ is guilty
6 of a Class H felony.;

7 **SECTION 22.** 943.201 (2) (a), (b) and (c) of the statutes are created to read:

8 943.201 (2) (a) To obtain credit, money, goods, services, employment, or any
9 other thing of value or benefit.

10 (b) To avoid civil or criminal process or penalty.

11 (c) To harm the reputation, property, person, or estate of the individual.

12 **SECTION 23.** 943.201 (3) and (4) of the statutes are created to read:

13 943.201 (3) It is an affirmative defense to a prosecution under this section that
14 the defendant was authorized by law to engage in the conduct that is the subject of
15 the prosecution. A defendant who raises this affirmative defense has the burden of
16 proving the defense by a preponderance of the evidence.

17 (4) If an individual reports to a law enforcement agency for the jurisdiction
18 which is the individual's residence that personal identifying information or a
19 personal identifying document belonging to the individual reasonably appears to be
20 in the possession of another in violation of this section or that another has used or
21 has attempted to use it in violation of this section, the agency shall prepare a report
22 on the alleged violation. If the law enforcement agency concludes that it appears not
23 to have jurisdiction to investigate the violation, it shall inform the individual which
24 law enforcement agency may have jurisdiction. A copy of a report prepared under

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1 this subsection shall be furnished upon request to the individual who made the
2 request, subject to payment of any reasonable fee for the copy.

3 **SECTION 24.** 943.203 of the statutes is created to read:

4 **943.203 Unauthorized use of an entity's identifying information or**
5 **documents.** (1) In this section:

6 (a) "Entity" means a person other than an individual.

7 (b) "Identification document" means any of the following:

8 1. A document containing identifying information.

9 2. An entity's card or plate, if it can be used, alone or in conjunction with another
10 access device, to obtain money, goods, services, or any other thing of value or benefit,
11 or if it can be used to initiate a transfer of funds.

12 3. Any other device that is unique to, assigned to, or belongs to an entity and
13 that is intended to be used to access services, funds, or benefits of any kind to which
14 the entity is entitled.

15 (c) "Identifying information" means any of the following information:

16 1. An entity's name.

17 2. An entity's address.

18 3. An entity's telephone number.

19 4. An entity's employer identification number.

20 5. The identifying number of an entity's depository account, as defined in s.
21 815.18 (2) (e).

22 6. Any of the following, if it can be used, alone or in conjunction with any access
23 device, to obtain money, goods, services, or any other thing of value or benefit, or if
24 it can be used to initiate a transfer of funds:

25 a. An entity's code or account number.

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1 b. An entity's electronic serial number, mobile identification number, entity
2 identification number, or other telecommunications service, equipment, or
3 instrument identifier.

4 c. Any other means of account access.

5 7. Any other information or data that is unique to, assigned to, or belongs to
6 an entity and that is intended to be used to access services, funds, or benefits of any
7 kind to which the entity is entitled.

8 8. Any other information that can be associated with a particular entity
9 through one or more identifiers or other information or circumstances.

10 (2) Whoever, for any of the following purposes, intentionally uses, attempts to
11 use, or possesses with intent to use any identifying information or identification
12 document of an entity without the authorization or consent of the entity and by
13 representing that the person is the entity or is acting with the authorization or
14 consent of the entity is guilty of a Class H felony:

15 (a) To obtain credit, money, goods, services, or anything else of value or benefit.

16 (b) To harm the reputation or property of the entity.

17 (3) It is an affirmative defense to a prosecution under this section that the
18 defendant was authorized by law to engage in the conduct that is the subject of the
19 prosecution. A defendant who raises this affirmative defense has the burden of
20 proving the defense by a preponderance of the evidence.

21 (4) If an entity reports to a law enforcement agency for the jurisdiction in which
22 the entity is located that personal identifying information or a personal identifying
23 document belonging to the entity reasonably appears to be in the possession of
24 another in violation of this section or that another has used or has attempted to use
25 it in violation of this section, the agency shall prepare a report on the alleged

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1 violation. If the law enforcement agency concludes that it appears not to have
2 jurisdiction to investigate the violation, it shall inform the entity which law
3 enforcement agency may have jurisdiction. A copy of a report prepared under this
4 subsection shall be furnished upon request to the entity that made the request,
5 subject to payment of any reasonable fee for the copy.

6 SECTION 25. 946.79 of the statutes is created to read:

7 **946.79 False statements to financial institutions.** (1) In this section:

8 (a) "Financial institution" means a bank, savings bank, savings and loan
9 association, credit union, insurance company, trust company, securities broker or

10 ~~dealer, pawnbroker,~~ as defined in s. 134.71 (1) (e), telegraph company, or dealer in
11 precious metals, stones, or jewels.

12 (b) "Financial transaction information" means information being submitted to
13 a financial institution in connection with a transaction with that financial
14 institution.

15 (c) "Monetary instrument" includes any of the following:

- 16 1. Coin or currency of the United States or any other country.
- 17 2. Traveler's check, personal check, money order, or share draft or other draft
18 for payment.

19 3. Investment security or negotiable instrument, in bearer form) or other form
20 that provides that title to the security or instrument passes upon delivery of the
21 security or instrument.

- 22 4. Precious metals, stones, or jewels.

23 (d) "Personal identification document" has the meaning given in s. 943.201 (1)

24 (a).

13-9B
SAI

13-10
SAI

SAI, book entry,

or transfer
SAI

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1 (e) “Personal identifying information” has the meaning given in s. 943.201 (1)

2 (b).

3 (f) “Transaction” means the acquisition or disposition of property by any means,
4 including any of the following:

5 1. The purchase, sale, trade, transfer, transmission, exchange, loan, pledge,
6 investment, delivery, deposit, or withdrawal of a monetary instrument.

7 2. The use of a safe deposit box.

8 3. The extension of credit.

9 (2) Whoever knowingly does any of the following in connection with the
10 submission of financial transaction information is guilty of a Class H felony:

11 (a) Falsifies or conceals or attempts to falsify or conceal an individual’s identity.

12 (b) Makes a false statement regarding an individual’s identity.

13 (c) Makes or uses a writing containing false information regarding an
14 individual’s identity.

15 (d) Uses a false personal identification document or false personal identifying
16 information.

17 **SECTION 26.** 946.82 (4) of the statutes, as affected by 2001 Wisconsin Act 109,
18 is amended to read:

19 946.82 (4) “Racketeering activity” means any activity specified in 18 USC 1961
20 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission
21 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),
22 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637,
23 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,
24 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20
25 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g),

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1 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3)
2 (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.25, 943.27,
3 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41
4 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c), 943.60, 943.70, 943.76, 944.21 (5) (c) and
5 (e), 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10,
6 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65,
7 946.72, 946.76, 946.79, 947.015, 948.05, 948.08, 948.12, and 948.30.

8 **SECTION 27.** 970.03 (11) of the statutes is amended to read:

9 970.03 (11) The court may admit a statement which is hearsay and which is
10 not excluded from the hearsay rule under ss. 908.02 to 908.045 to prove ownership
11 of property or lack of consent to entry to or possession or destruction of property or
12 to prove any element under s. 943.201 (2) or 943.203 (2).

13 **SECTION 28.** 970.03 (13) of the statutes is amended to read:

14 970.03 (13) ~~Upon a showing by the proponent of good cause under s. 807.13 (2)~~
15 ~~(e), testimony~~ Testimony may be received into the record of a preliminary
16 examination by telephone or live audiovisual means if the proponent shows good
17 cause or if the testimony is used to prove an element of an offense under s. 943.201
18 (2) or 943.203 (2).

19 **SECTION 29.** 971.19 (11) of the statutes is created to read:

20 971.19 (11) In an action under s. 943.201, the defendant may be tried in the
21 county where the victim or intended victim ~~resides~~ or in any other county designated
22 under this section. In an action under s. 943.203, the defendant may be tried in the
23 county where the victim or intended victim ~~is located~~ or in any other county
24 designated under this section.

25 **SECTION 30.** 971.366 of the statutes is created to read:

15-21 AA2

15-23

AA2

**ASSEMBLY AMENDMENT 2,
TO 2003 ASSEMBLY BILL 288**

May 1, 2003 - Offered by COMMITTEE ON JUDICIARY.

~~FA~~ 8-4

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 8, line 4: after "victim" insert ", at the time of the violation".

3 **2.** Page 15, line 21: delete "resides" and substitute "resided at the time of the
4 offense".

15-2

5 **3.** Page 15, line 23: delete "is located" and substitute "was located at the time
6 of the offense".

15-23

(END)

**SENATE AMENDMENT 1,
TO 2003 ASSEMBLY BILL 288**

June 16, 2003 - Offered by COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 13, line 9: after "union," insert "loan company, sales finance company,
3 insurance premium finance company, community currency exchange, seller of
4 checks,"
5

13-9A

6 **2.** Page 13, line 9: delete "broker or" and substitute "broker-dealer, as defined

13-9A

in s. 551.02 (3)

13-9 B

7 **3.** Page 13, line 10: delete "dealer, pawnbroker" and substitute "mortgage
8 banker, mortgage broker, pawnbroker".

13-10

9 **4.** Page 13, line 19: after "bearer form" insert ", book entry,".

10 **5.** Page 13, line 20: after "delivery" insert "or transfer".

11 (END)