

IC 35-40-14

Chapter 14. Rights of Victims of Identity Deception

IC 35-40-14-1

"Identity theft"

Sec. 1. As used in this chapter, "identity theft" means:

- (1) identity deception (IC 35-43-5-3.5);
- (2) synthetic identity deception (IC 35-43-5-3.8); or
- (3) a substantially similar crime committed in another jurisdiction.

As added by P.L.137-2009, SEC.11.

IC 35-40-14-2

"Unit"

Sec. 2. As used in this chapter, "unit" refers to the identity theft unit established under IC 4-6-13-2.

As added by P.L.137-2009, SEC.11.

IC 35-40-14-3

Duties of law enforcement agencies concerning identity theft

Sec. 3. (a) A person who has learned or reasonably suspects that the person has been the victim of identity theft may contact the local law enforcement agency that has jurisdiction over the person's residence. The local law enforcement agency shall take an official report of the matter and provide the complainant with a copy of that report. Even if jurisdiction lies elsewhere for investigation and prosecution of a crime of theft, the local law enforcement agency shall take the complaint and provide the person with a copy of the complaint. The law enforcement authority may refer the complaint to a law enforcement agency in a different jurisdiction.

(b) This section does not affect the discretion of a local law enforcement agency to allocate resources for investigation of crimes. A complaint filed under this section is not required to be counted as an open case for purposes of compiling open case statistics.

As added by P.L.137-2009, SEC.11.

IC 35-40-14-4

Protections for victims of identity theft

Sec. 4. (a) A person who is injured by a crime of identity theft or who has filed a police report alleging commission of an offense of identity theft may file an application with the court in the jurisdiction where the person resides for the issuance of a court order declaring that the person is a victim of identity theft. A person may file an application under this section regardless of whether the person is able to identify each person who allegedly obtained, possessed, transferred, or used the person's identifying information in an unlawful manner.

(b) A person filing an application under subsection (a) shall file a copy of the application with the unit. The unit may appear at and present evidence in a hearing conducted under this section if the unit

determines that a court order declaring the applicant a victim of identity theft would be inappropriate.

(c) A person is presumed to be a victim of identity theft under this section if another person is charged with and convicted of an offense of identity theft for unlawfully obtaining, possessing, transferring, or using the person's identifying information.

(d) After notice and hearing, if the court is satisfied by a preponderance of the evidence that the applicant has been injured by a crime of identity theft, the court shall enter an order containing:

(1) a declaration that the person filing the application is a victim of identity theft resulting from the commission of a crime of identity theft;

(2) any known information identifying the violator or person charged with the offense;

(3) the specific personal identifying information and any related document or record used to commit the alleged offense; and

(4) information identifying any financial account or transaction affected by the alleged offense, including:

(A) the name of the financial institution in which the account is established or of the merchant or creditor involved in the transaction, as appropriate;

(B) any relevant account numbers;

(C) the dollar amount of the account or transaction affected by the alleged offense; and

(D) the date or dates of the offense.

(e) Except as provided in subsection (h), an order issued under this section must be sealed because of the confidential nature of the information required to be included in the order. The order may be opened and the order or a copy of the order may be released only:

(1) to the proper officials in a civil proceeding brought by or against the victim arising or resulting from the commission of a crime of identity theft, including a proceeding to set aside a judgment obtained against the victim;

(2) to the victim for the purpose of submitting the copy of the order to a governmental entity or private business to:

(A) prove that a financial transaction or account of the victim was directly affected by the commission of a crime of identity theft; and

(B) correct any record of the entity or business that contains inaccurate or false information as a result of the offense;

(3) on order of the judge; or

(4) as otherwise required by law.

(f) A court at any time may vacate an order issued under this section if the court finds that the application or any information submitted to the court by the applicant contains a fraudulent misrepresentation or a material misrepresentation of fact.

(g) Except as provided in subsection (h), a copy of the order provided to a person under subsection (e)(1) must remain sealed throughout and after the civil proceeding. Information contained in a copy of an order provided to a governmental entity or business

under subsection (e)(2) is confidential and may not be released to another person except as otherwise required by law.

(h) The following information regarding an application filed under this section may be released to the public:

- (1) The name of the applicant.
- (2) The county of residence of the applicant.
- (3) Whether the application was approved or denied by the court.

As added by P.L.137-2009, SEC.11.