

By Representative Ogles

1                                   A bill to be entitled  
2           An act relating to identity theft; providing  
3           definitions; specifying certain activities  
4           relating to identity theft as unlawful under  
5           certain circumstances; providing penalties;  
6           providing exceptions; providing penalties for  
7           conspiracy; providing requirements for certain  
8           descriptors or identifiers; providing an  
9           effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13           Section 1. This act may be cited as the "Identity  
14 Theft Prevention Act of 1998."

15           (1) For purposes of this act:

16           (a) "Communication facility" means any public or  
17 private instrumentality used or useful in the transmission of  
18 writing, signs, signals, pictures, or sounds of any kind,  
19 including, but not limited to, mail, telephone, wire, radio,  
20 and any other means of communication.

21           (b) "Document-making implement" means any implement,  
22 impression, electronic device, or computer hardware or  
23 software, that is specifically configured or primarily used  
24 for making an identification document or false identification  
25 document or another document-making implement.

26           (c) "Identification document" means a document made or  
27 issued by or under the authority of the United States  
28 Government, a state, a political subdivision of a state, a  
29 foreign government, a political subdivision of a foreign  
30 government, an international governmental or an international  
31 quasi-governmental organization which, when completed with

1 information concerning a particular individual, is of a type  
2 intended or commonly accepted for the purpose of  
3 identification of individuals.  
4 (d) "Means of identification" means any name or number  
5 that may be used, alone or in conjunction with any other  
6 information, to assume the identity of an individual,  
7 including, but not limited to, any:  
8 1. Social security number, date of birth, state or  
9 government issued driver's license or identification number,  
10 alien registration number, government passport number, or  
11 employer or taxpayer identification number.  
12 2. Unique biometric data, such as fingerprint, voice  
13 print, retina or iris image, or other unique physical  
14 representation.  
15 3. Unique electronic identification number, address,  
16 or routing code.  
17 4. Telecommunication identifying information or access  
18 device as defined in s. 655.960, Florida Statutes.  
19 5. Other means of identification not issued lawfully  
20 to the user.  
21 (e) "Personal identification card" means an  
22 identification document issued by a state or local government  
23 solely for the purpose of identification.  
24 (f) "Produce" includes alter, authenticate, or  
25 assemble.  
26 (g) "State" includes any state of the United States,  
27 the District of Columbia, the Commonwealth of Puerto Rico, and  
28 any other commonwealth, possession, or territory of the United  
29 States.  
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1           (h) "Victim" means any identifiable individual whose  
2 means of identification has been assumed, stolen, or otherwise  
3 unlawfully acquired.

4           (2) It is unlawful to:

5           (a) Knowingly and without lawful authority produce an  
6 identification document or a false identification document;

7           (b) Knowingly transfer an identification document or a  
8 false identification document knowing that such document was  
9 stolen or produced without lawful authority;

10          (c) Knowingly possess with intent to use unlawfully or  
11 transfer unlawfully five or more means of identification,  
12 identification documents other than those issued lawfully for  
13 the use of the possessor, or false identification documents;

14          (d) Knowingly possess a means of identification, an  
15 identification document other than one issued lawfully for the  
16 use of the possessor, or a false identification document with  
17 the intent to use such means of identification or document to  
18 defraud this state;

19          (e) Knowingly produce, transfer, or possess a  
20 document-making implement with the intent of using such  
21 document-making implement in the production of a false  
22 identification document or another document-making implement  
23 which will be so used;

24          (f) Knowingly possess an identification document that  
25 is or appears to be an identification document of a state or  
26 the United States which is stolen or produced without lawful  
27 authority knowing that such document was stolen or produced  
28 without such authority; or

29          (g)1. Knowingly and unlawfully obtain, possess, or  
30 transfer five or more means of identification; or

31          2. Use one or more means of identification,

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2 if the identification document or false identification  
3 document is or appears to be issued by or under the authority  
4 of a state or the United States or the document-making  
5 implement is designed or suited for making such an  
6 identification document or false identification document or  
7 the production, transfer, obtaining, possession, or use  
8 prohibited by this act involves the use of a communication  
9 facility.

10 (3) A person who violates any provision of subsection  
11 (2), which violation consists of:

12 (a)1. Any activity undertaken to facilitate an act of  
13 international terrorism as defined in 18 U.S.C. s. 2331; or

14 2. Any activity undertaken in connection with a crime  
15 of violence, which is defined as an offense that has as an  
16 element the use, attempted use, or threatened use of physical  
17 force against the person or property of another or any other  
18 offense that is a felony and that, by its nature, involves a  
19 substantial risk that physical force against the person or  
20 property of another may be used in the course of committing  
21 the offense,

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23 commits a life felony, punishable as provided in s. 775.082,  
24 s. 775.083, or s. 775.084, Florida Statutes.

25 (b)1. Any activity undertaken to facilitate a drug  
26 trafficking crime, as provided in s. 893.135, Florida  
27 Statutes;

28 2. Any activity involving the abuse of a position of  
29 public or private trust, in a manner that significantly  
30 facilitated the commission or concealment of the offense;

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1           3. Any activity undertaken in connection with an  
2 offense relating to counterfeit or forged securities,  
3 fictitious obligations, fraud and related activity in  
4 connection with access devices, fraud and related activity in  
5 connection with computers, mail frauds and swindles, the use  
6 of a fictitious name or address, fraud by wire, radio, or  
7 television, bank fraud, theft or receipt of stolen mail  
8 matter, or any other provision of state law relating to fraud  
9 or mail fraud as determined by the Attorney General; or

10           4. Any second or subsequent violation of the  
11 provisions of subsection (2),  
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13 commits a felony of the first degree, punishable as provided  
14 in s. 775.082, s. 775.083, or s. 775.084, Florida Statutes.

15           (c)1. The production or transfer of a means of  
16 identification, an identification document, or false  
17 identification document that is or appears to be:

18           a. A means of identification or an identification  
19 document issued by or under the authority of a state or the  
20 United States; or

21           b. A birth certificate, a driver's license, or a  
22 personal identification card or other means of identification  
23 or an identification document issued by or under the authority  
24 of a state; or

25           2. The production or transfer of more than five means  
26 of identification, identification documents, or false  
27 identification documents; or

28           3. An offense under paragraph (2)(e) or subparagraph  
29 (2)(g)2.,

1 commits a felony of the second degree, punishable as provided  
2 in s. 775.082 or s. 775.083, Florida Statutes.

3 (d)1. Any other production or transfer of a means of  
4 identification, an identification document, or a false  
5 identification document; or

6 2. An offense under paragraph (2)(c),

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8 commits a felony of the third degree, punishable as provided  
9 in s. 775.082 or s. 775.083, Florida Statutes.

10 (e) Any other circumstance commits a misdemeanor of  
11 the first degree, punishable as provided in s. 775.082 or s.  
12 775.083, Florida Statutes.

13 (4) This act does not prohibit any lawfully authorized  
14 investigative, protective, or intelligence activity of a law  
15 enforcement agency of the United States, a state, or a  
16 political subdivision of a state, or of an intelligence agency  
17 of the United States, or any activity authorized s. 914.25,  
18 Florida Statutes.

19 (5) Any person who attempts or conspires to commit any  
20 violation under this section shall be subject to the same  
21 penalties as those prescribed for the violation, the  
22 commission of which was the object of the attempt or  
23 conspiracy.

24 (6) For purposes of this act, to the maximum extent  
25 feasible, personal descriptors or identifiers used in  
26 identification documents shall use common descriptive terms  
27 and formats designed to:

28 (a) Reduce the redundancy and duplication of  
29 identification systems by providing information which can be  
30 used by the maximum number of authorities.

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1           (b) Facilitate positive identification of bona fide  
2 holders of identification documents.

3           Section 2. This act shall take effect July 1 of the  
4 year in which enacted.

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7                                   HOUSE SUMMARY

8           Makes it unlawful to engage in specified activities  
9 relating to identity theft, including conspiracy.  
10 Provides penalties. Exempts lawfully authorized  
11 investigative, protective, or intelligence activities.  
12 See bill for details.

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