



323406

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/18/2015	.	
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The Committee on Judiciary (Benacquisto) recommended the following:

Senate Amendment

Delete lines 90 - 187
and insert:
out-of-pocket costs, including attorney fees and fees associated
with services provided by certified public accountants licensed
under chapter 473, incurred by the victim in clearing the
victim's credit history or credit rating, or costs incurred in
connection with a civil or administrative proceeding to satisfy
a debt, lien, or other obligation of the victim arising as a



323406

11 result of the actions of the defendant.

12 (b) The sentencing court may issue such orders as are
13 necessary to correct a public record that contains false
14 information given in violation of this section.

15 (3) (a) A victim of the conduct subject to this section
16 shall have a civil cause of action against a person who has
17 engaged in the conduct prohibited by this section as provided in
18 s. 772.11.

19 (b) For purposes of this subsection, the term "victim"
20 includes, to the extent not already included within s. 817.568,
21 a person whose identity was falsely personated or who suffers a
22 loss of property as a result of the false personation.

23 Section 3. Section 817.032, Florida Statutes, is created to
24 read:

25 817.032 Information available to identity theft victims.—

26 (1) DEFINITION.—As used in this section, the term "victim"
27 means a person whose means of identification or financial
28 information is used or transferred or is alleged to be used or
29 transferred without the authority of that person with the intent
30 to commit or to aid or abet an identity theft or a similar
31 crime.

32 (2) GENERALLY.—For the purpose of documenting fraudulent
33 transactions resulting from identity theft, within 30 days after
34 the date of receipt of a request from a victim in accordance
35 with subsection (4), and subject to verification of the identity
36 of the victim and the claim of identity theft in accordance with
37 subsection (3), a business entity that has provided credit to;
38 provided for consideration products, goods, or services to;
39 accepted payment from; or otherwise entered into a commercial



323406

40 transaction for consideration with, a person who has allegedly
41 made unauthorized use of the means of identification of the
42 victim, shall provide a copy of the application and business
43 transaction records in the control of the business entity,
44 whether maintained by the business entity or by another person
45 on behalf of the business entity, evidencing any transaction
46 alleged to be a result of identity theft to:

47 (a) The victim;

48 (b) A federal, state, or local government law enforcement
49 agency or officer specified by the victim in such a request; or

50 (c) A law enforcement agency investigating the identity
51 theft and authorized by the victim to take receipt of records
52 provided under this section.

53 (3) VERIFICATION OF IDENTITY AND CLAIM.—Before a business
54 entity provides any information under subsection (2), unless the
55 business entity, at its discretion, has a high degree of
56 confidence that it knows the identity of the victim making a
57 request under subsection (2), the victim shall provide to the
58 business entity:

59 (a) As proof of positive identification of the victim, at
60 the election of the business entity:

61 1. The presentation of a government-issued identification
62 card;

63 2. Personal identifying information of the same type as
64 provided to the business entity by the unauthorized person; or

65 3. Personal identifying information that the business
66 entity typically requests from new applicants or for new
67 transactions, at the time of the victim's request for
68 information, including any documentation described in



323406

69 subparagraphs 1. and 2.

70 (b) As proof of a claim of identity theft, at the election
71 of the business entity:

72 1. A copy of a police report evidencing the claim of the
73 victim of identity theft; or

74 2. A properly completed affidavit of fact which is
75 acceptable to the business entity for that purpose.

76 (4) PROCEDURES.—The request of a victim under subsection
77 (2) must:

78 (a) Be in writing;

79 (b) Be mailed or delivered to an address specified by the
80 business entity, if any; and

81 (c) If asked by the business entity, include relevant
82 information about any transaction alleged to be a result of
83 identity theft to facilitate compliance with this section,
84 including:

85 1. If known by the victim or readily obtainable by the
86 victim, the date of the application or transaction.

87 2. If known by the victim or readily obtainable by the
88 victim, any other identifying information such as an account
89 number or transaction number.

90 (5) NO CHARGE TO VICTIM.—Information required to be
91 provided under subsection (2) shall be provided without charge.

92 (6) AUTHORITY TO DECLINE TO PROVIDE INFORMATION.—A business
93 entity may decline to provide information under subsection (2)
94 if, in the exercise of good faith, the business entity
95 determines that:

96 (a) This section does not require disclosure of the
97 information;



323406

98 (b) After reviewing the information provided pursuant to
99 subsection (3), the business entity does not have a high degree
100 of confidence in knowing the true identity of the individual
101 requesting the information;

102 (c) The request for the information is based on a
103 misrepresentation of fact by the individual requesting the
104 information; or