

ASSEMBLY BILL NO. 71—ASSEMBLYWOMAN BUCKLEY

PREFILED JANUARY 28, 1999

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning use of personal identity. (BDR 15-146)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to personal identity; prohibiting a person from obtaining any personal identifying information of another person and using the information to harm that other person or for any unlawful purpose; making various changes to provisions concerning identity fraud and false status; authorizing a person to bring a civil action against another person who unlawfully obtained and used his personal identifying information; requiring a creditor who mails a solicitation for an extension of credit to a person to use the same address to mail the extension of credit to the person under certain circumstances; making various changes concerning access to certain consumer reports; providing penalties; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 199.480 is hereby amended to read as follows:
2 199.480 1. Except as otherwise provided in subsection 2, whenever
3 two or more persons conspire to commit murder, robbery, sexual assault,
4 kidnaping in the first or second degree, ~~or~~ arson in the first or second
5 degree, ***or a violation of section 2 of this act***, each person is guilty of a
6 category B felony and shall be punished:
7 (a) If the conspiracy was to commit robbery, sexual assault, kidnaping in
8 the first or second degree, ~~or~~ arson in the first or second degree, ***or a***
9 ***violation of section 2 of this act***, by imprisonment in the state prison for a
10 minimum term of not less than 1 year and a maximum term of not more
11 than 6 years; or

(b) If the conspiracy was to commit murder, by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$5,000.

2. If the conspiracy subjects the conspirators to criminal liability under NRS 207.400, they shall be punished in the manner provided in NRS 207.400.

3. Whenever two or more persons conspire:

(a) To commit any crime other than those set forth in subsections 1 and 2, and no punishment is otherwise prescribed by law;

(b) Falsely and maliciously to procure another to be arrested or proceeded against for a crime;

(c) Falsely to institute or maintain any action or proceeding;

(d) To cheat or defraud another out of any property by unlawful or fraudulent means;

(e) To prevent another from exercising any lawful trade or calling, or from doing any other lawful act, by force, threats or intimidation, or by interfering or threatening to interfere with any tools, implements or property belonging to or used by another, or with the use or employment thereof;

(f) To commit any act injurious to the public health, public morals, trade or commerce, or for the perversion or corruption of public justice or the due administration of the law; or

(g) To accomplish any criminal or unlawful purpose, or to accomplish a purpose, not in itself criminal or unlawful, by criminal or unlawful means,

each person is guilty of a gross misdemeanor.

Sec. 2. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a person who knowingly:

(a) Obtains any personal identifying information of another person; and

(b) Uses the personal identifying information to harm that other person or for any unlawful purpose, including, without limitation, to obtain credit, a good, a service or anything of value in the name of that person,

is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.

1 **2. A person who knowingly:**
2 **(a) Obtains any personal identifying information of another person;**
3 **and**
4 **(b) Uses the personal identifying information to avoid or delay being**
5 **prosecuted for an unlawful act,**
6 **is guilty of a category E felony and shall be punished as provided in NRS**
7 **193.130.**

8 **3. In addition to any other penalty, the court shall order a person**
9 **convicted of violating subsection 1 to pay restitution, including, without**
10 **limitation, any attorney's fees and costs incurred to:**

11 **(a) Repair the credit history or rating of the person whose personal**
12 **identifying information he obtained and used in violation of subsection**
13 **1; and**

14 **(b) Satisfy a debt, lien or other obligation incurred by the person**
15 **whose personal identifying information he obtained and used in violation**
16 **of subsection 1.**

17 **4. As used in this section, "personal identifying information" has the**
18 **meaning ascribed to it in NRS 205.465.**

19 **Sec. 3.** NRS 205.450 is hereby amended to read as follows:

20 205.450 Every person who shall falsely represent or personate another,
21 and, in such assumed character, shall marry another, become bail or surety
22 for any party, in any proceeding, civil or criminal, before any court or
23 officer authorized to take such bail or surety, or confess any judgment, or
24 acknowledge the execution of any conveyance of real property, or of any
25 other instrument which, by law, may be recorded, or do any other act in the
26 course of any suit, proceeding or prosecution, whereby the person so
27 represented or personated may be made liable, in any event, to the payment
28 of any debt, damages, cost or sum of money, or his right or interest may, in
29 any manner be affected, ~~shall be~~ **is** guilty of a ~~misdemeanor~~ **category C**
30 **felony and shall be punished as provided in NRS 193.130.**

31 **Sec. 4.** NRS 205.455 is hereby amended to read as follows:

32 205.455 ~~Every~~ **Unless a greater penalty is provided pursuant to**
33 **section 2 of this act, a** person who falsely represents or personates another,
34 and, in such assumed character, receives any money or valuable property of
35 any description intended to be delivered to the person so personated, shall
36 be punished in the same manner and to the same extent as ~~for feloniously~~
37 ~~stealing~~ **if he stole** the money or property so received.

38 **Sec. 5.** NRS 205.465 is hereby amended to read as follows:

39 205.465 1. It is unlawful for a person to possess, sell or transfer any
40 document **or personal identifying information** for the purpose of
41 establishing a false status, occupation, membership, license or identity for
42 himself or any other person.

1 2. A person who ~~{sells}~~ :

2 (a) *Sells* or transfers any such document *or personal identifying*
3 *information in violation of subsection 1; or*

4 (b) *Possesses any such document or personal identifying information*
5 *in violation of subsection 1 to commit any of the crimes set forth in NRS*
6 *205.085 to 205.217, inclusive, 205.473 to 205.491, inclusive, or 205.610*
7 *to 205.810, inclusive,*

8 is guilty of a category C felony and shall be punished as provided in NRS
9 193.130. ~~{A}~~

10 3. *Except as otherwise provided in subsection 2, a* person who
11 possesses any such document *or personal identifying information in*
12 *violation of subsection 1* is guilty of a misdemeanor.

13 ~~{3-}~~ 4. Subsection 1 does not:

14 (a) Preclude the adoption by a city or county of an ordinance prohibiting
15 the possession of any such document ~~{-}~~ *or personal identifying*
16 *information; or*

17 (b) Prohibit the possession or use of ~~{those documents}~~ *any such*
18 *document or personal identifying information* by officers of local police,
19 sheriff and metropolitan police departments and by agents of the
20 investigation division of the department of motor vehicles and public safety
21 while engaged in undercover investigations ~~{relating to narcotics or~~
22 ~~prostitution.}~~ *related to the lawful discharge of their duties.*

23 5. *As used in this section:*

24 (a) *“Document” includes, without limitation, a photocopy print,*
25 *photostat and other replica of a document.*

26 (b) *“Personal identifying information” means any information*
27 *designed, commonly used or capable of being used, alone or in*
28 *conjunction with any other information, to identify a person, including,*
29 *without limitation:*

30 (1) *The name, driver’s license number, social security number,*
31 *savings account number, credit card number, date of birth, place of*
32 *employment and maiden name of the mother of a person; and*

33 (2) *The fingerprints, voiceprint, retina image and iris image of a*
34 *person.*

35 **Sec. 6.** Chapter 41 of NRS is hereby amended by adding thereto a new
36 section to read as follows:

37 1. *A person who has suffered injury as the proximate result of a*
38 *violation of the provisions of section 2 of this act may commence an*
39 *action for the recovery of his actual damages, costs and reasonable*
40 *attorney’s fees and for any punitive damages that the facts may warrant.*

41 2. *An action described in subsection 1 must be commenced not later*
42 *than 2 years after the person who suffered the injury discovers the facts*
43 *constituting the violation of the provisions of section 2 of this act.*

1 **Sec. 7.** Chapter 598B of NRS is hereby amended by adding thereto a
2 new section to read as follows:

3 *If a creditor mails a solicitation for the extension of credit to a person*
4 *and the person applies for such credit, the creditor shall mail the*
5 *extension of credit to the person to the same address as the solicitation,*
6 *unless the creditor verifies any change of address of the person using a*
7 *reliable method.*

8 **Sec. 8.** Chapter 598C of NRS is hereby amended by adding thereto a
9 new section to read as follows:

10 1. *If a consumer files a report with a law enforcement agency*
11 *alleging that a person has unlawfully obtained and used the personal*
12 *identifying information of the consumer in violation of section 2 of this*
13 *act, the consumer may request a reporting agency to close all access to its*
14 *files concerning him. To make such a request, the consumer shall submit*
15 *to the reporting agency:*

16 (a) *Sufficient information to confirm his own identity;*

17 (b) *A copy of the report that the consumer filed with the law*
18 *enforcement agency; and*

19 (c) *A written request for the reporting agency to close access to its files*
20 *concerning the consumer unless the reporting agency obtains his prior*
21 *written authorization.*

22 2. *Not later than 15 days after receiving the information set forth in*
23 *subsection 1, the reporting agency shall provide the consumer with a*
24 *written acknowledgment to be signed, notarized and returned by the*
25 *consumer to the reporting agency which indicates that the consumer*
26 *acknowledges that:*

27 (a) *The reporting agency will provide access to its files concerning the*
28 *consumer only in the manner set forth in subsection 4; and*

29 (b) *The ability of the consumer to obtain a checking account, credit,*
30 *employment, insurance, housing or a license required by a governmental*
31 *agency may be restricted if access to his files remains closed.*

32 3. *Except as otherwise provided in subsection 4, not later than 48*
33 *hours after receiving from a consumer a signed and notarized copy of the*
34 *written acknowledgment pursuant to subsection 2, the reporting agency*
35 *shall close all access to its files concerning the consumer.*

36 4. *A reporting agency shall provide access to the files of the*
37 *reporting agency that have been closed pursuant to subsection 3 only if:*

38 (a) *The reporting agency receives a written statement from the*
39 *consumer whose files are closed rescinding his request to close access to*
40 *his files;*

41 (b) *The reporting agency receives a written statement from the*
42 *consumer whose files are closed authorizing the reporting agency to*
43 *provide access to a specific person; or*

1 (c) *A court of competent jurisdiction has issued an order requiring the*
2 *reporting agency to provide access to a specific person.*

3 5. *If access to the files of a reporting agency concerning a consumer*
4 *has been closed pursuant to subsection 3, the reporting agency shall so*
5 *inform any person who requests access to the files.*

6 **Sec. 9.** The amendatory provisions of this act do not apply to offenses
7 that were committed before October 1, 1999.

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