

HOUSE No. 1571

By Mr. Linsky of Natick, petition of David Paul Linsky and others relative to the crime of identity fraud. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

David Paul Linsky	Matthew C. Patrick
Mark C. Montigny	Brian A. Joyce
James E. Timilty	Stephen M. Brewer
Cleon H. Turner	Michael E. Festa
John D. Keenan	Alice Hanlon Peisch
Scott P. Brown	James B. Eldridge
Louis L. Kafka	John W. Scibak
Gale D. Candaras	Gloria L. Fox
Thomas M. Stanley	John V. Fernandes
Angelo J. Puppolo, Jr.	Denise Provost
James E. Vallee	Patricia D. Jehlen
Michael F. Rush	Bruce J. Ayers
J. James Marzilli, Jr.	Karen E. Spilka

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE CRIME OF IDENTITY FRAUD.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 37E of Chapter 266 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended in subsec-
3 tion (a) within the definition of "Personal identifying information"
4 by: (i) striking the word "individual" and inserting in place thereof,
5 the word "person" and (ii) inserting after the words "password iden-
6 tification", as appearing at the end of the subparagraph, the
7 following words: "or tax identification number, or other bank or
8 financial institution issued financial account number or distinctive
9 password identification code".

1 SECTION 2. Section 37E of Chapter 266 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended in subsec-
3 tion (a), by inserting after the definition of

4 “Personal identifying information” the following definition:
5 “Person” includes an individual whether living or deceased, associa-
6 tion, organization, corporation or other business entity.”.

1 SECTION 3. Section 37E of Chapter 266 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended as follows
3 by inserting after subsection (c), the following subsections:—

4 (d) Whoever attempts to solicit, obtain or obtains from another
5 person the personal identifying information of such person, by false
6 pretense or by willfully making a materially false, fictitious or
7 deceptive statement or communication, whether by oral, written,
8 electronic mail, internet site or any other means, with the intent to:

9 (i) pose as such person in order to defraud any person, by fraudu-
10 lently obtaining money, credit, goods, services or anything of value,
11 or

12 (ii) use the personal identifying information of such person to
13 obtain, forge, or cause to be made, any unlawful, fraudulent or false:
14 bank or financial institution issued credit card, charge card, bank
15 card or financial instrument or any government or quasi-government
16 issued identification card, license, passport, birth certificate or
17 permit document.

18 shall be guilty of the crime of identity fraud and shall be punished
19 as follows:

20 (1) for a violation involving subsection (d)(i): if the offense is a
21 first offense and the value of the item obtained or attempted to be
22 obtained is no more than two hundred and fifty dollars, by a fine of
23 not more than \$1,000, or by imprisonment in the house of correction
24 for not more than 2½ years, or by both such fine and imprisonment;
25 or if the offense is a second or subsequent offense or the value of the
26 item obtained or attempted to be obtained is more than two hundred
27 and fifty dollars, by a fine of not more than \$5,000, or by imprison-
28 ment in the state prison for not more than 5 years, or in the house of
29 correction for not more than 2½ years, or by both such fine and
30 imprisonment; and

31 (2) for a violation involving subsection (d)(ii) by a fine of not
32 more than \$5,000, or by imprisonment in the state prison for not
33 more than 5 years, or in the house of correction for not more than
34 2 ½ years, or by both such fine and imprisonment.

35 A person who knowingly aids or abets another person to commit
36 or attempt to commit the offense of identity fraud prohibited by this
37 subsection shall be guilty of, and shall be subject to the punishment
38 for, identity fraud provided under this subsection.

39 (e) A prosecution under this section may be commence and
40 disposed of, in either the Superior Court or District Court. A prose-
41 cution in the Superior Court may be commenced in the county in
42 which the conduct in violation of this section occurred in the
43 commonwealth, or in the county where the victim or defendant
44 resides, or has a principal place of business within the common-
45 wealth. A prosecution commenced in the District Court may be com-
46 menced in the judicial district in which the conduct in violation of
47 this section occurred within the commonwealth, or in the judicial
48 district where the victim or defendant resides or has a principal place
49 of business within the commonwealth.

1 SECTION 4. Section 37E of Chapter 266 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 striking the current subsection heading “(d)” and inserting a new
4 subsection heading “(f)”.

1 SECTION 5. Section 37E of Chapter 266 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 striking the current subsection heading “(e)” and inserting a new
4 subsection heading “(g)”.

1 SECTION 6. Section 37E of Chapter 266 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 inserting after current subsection (e), which heading is to be
4 amended to subsection “(g)” by Section 5, the following sub
5 section:—

6 (h) A law enforcement officer when acting within the scope of the
7 officer’s lawful authority shall not be subject to the prohibitions of
8 subsections (b), (c) or (d).