



LEGAL UPDATE

MICHIGAN STATE POLICE TRAINING DIVISION

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Identity Protection Act

Public Act No. 452 of 2004 – March 1, 2005

(The following excerpts are from the new act. The entire act can be located at www.michiganlegislature.org)

Sec. 7. A person shall not do any of the following:

- (a) Obtain or possess, or attempt to obtain or possess, personal identifying information of another person with the intent to use that information to commit identity theft or another crime.
- (b) Sell or transfer, or attempt to sell or transfer, personal identifying information of another person if the person knows or has reason to know that the specific intended recipient will use, attempt to use, or further transfer the information to another person for the purpose of committing identity theft or another crime.
- (c) Falsify a police report of identity theft, or knowingly create, possess, or use a false police report of identity theft.

Sec. 5. (1) A person shall not do any of the following:

- (a) With intent to defraud or violate the law, use or attempt to use the personal identifying information of another person to do either of the following:
 - (i) Obtain credit, goods, services, money, property, a vital record, medical records or information, or employment.
 - (ii) Commit another unlawful act.
- (b) By concealing, withholding, or misrepresenting the person's identity, use or attempt to use the personal identifying information of another person to do either of the following:
 - (i) Obtain credit, goods, services, money, property, a vital record, medical records or information, or employment.
 - (ii) Commit another unlawful act.

Sec. 9. (1) Subject to subsection (6), a person who violates section 5 or 7 is guilty of a felony

punishable by imprisonment for not more than 5 years or a fine of not more than \$25,000.00, or both.

Public Act No. 458 of 2004 - March 1, 2005 ***(MCL 767.24) – Statute of Limitations***

(4) An indictment for identity theft or attempted identity theft may be found and filed as follows:

- (a) Except as otherwise provided in subdivision (b), an indictment may be found and filed within 6 years after the offense is committed.
- (b) If evidence of the violation is obtained and the individual who committed the offense has not been identified, an indictment may be found and filed at any time after the offense is committed, but not more than 6 years after the individual is identified.
- (c) As used in this subsection:
 - (i) "Identified" means the individual's legal name is known.
 - (ii) "Identity theft" means 1 or more of the following:
 - (A) Conduct prohibited in section 5 or 7 of the identity theft protection act, MCL 445.65 and 445.67.
 - (B) Conduct prohibited under former section 285 of the Michigan penal code, 1931 PA 328.

Secretly obtaining another's personal identification. Public Act 460 of 2004 – March 1, 2005 - MCL 750.539k.

- (1) A person who is not a party to a transaction that involves the use of a financial transaction device shall not secretly or surreptitiously photograph, or otherwise capture or record, electronically or by any other means, or distribute, disseminate, or transmit, electronically or by any other means, personal identifying information from the transaction without the consent of the individual.
- (2) This section does not prohibit the capture or transmission of personal identifying information in the ordinary and lawful course of business.

(3) This section does not apply to a peace officer of this state, or of the federal government, or the officer's agent, while in the lawful performance of the officer's duties.

(4) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section.

(5) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(6) As used in this section:

(a) "Financial transaction device" means that term as defined in section 157m.

(b) "Personal identifying information" means that term as defined in section 3 of the identity theft protection act, MCL 445.63.

Venue for prosecution of identity theft will include the jurisdiction where victim resides. PA 453 of 2004 - March 1, 2005.

(1) Conduct prohibited under former section 750.285 of the Michigan penal code or a violation of the identity theft protection act, or a violation of law committed in furtherance of or arising from the same transaction as conduct prohibited under former section 285 of the Michigan penal code, 1931 PA 328, or a violation of the identity theft protection act, may be prosecuted in 1 of the following jurisdictions:

(a) The jurisdiction in which the offense occurred.

(b) The jurisdiction in which the information used to commit the violation was illegally used.

(c) The jurisdiction in which the victim resides.

(2) If a person is charged with more than 1 violation of the identity theft protection act and those violations may be prosecuted in more than 1 jurisdiction, any of those jurisdictions is a proper jurisdiction for all of the violations.

New act expands prohibited explosives law. PA 523 of 2004 - Dec 30, 2004 - MCL 750.211a

(1) A person shall not do either of the following:

(a) Except as provided in subdivision (b), manufacture, buy, sell, furnish, or possess a Molotov cocktail or any similar device.

(b) Manufacture, buy, sell, furnish, or possess any device that is designed to explode or that will explode upon impact or with the application of heat or a flame or that is highly incendiary, with the intent to frighten, terrorize, intimidate, threaten, harass, injure, or kill any person, or with the intent to damage or destroy any real or personal property without the permission of the property owner or, if the property is public property, without the permission of the governmental agency having authority over that property.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) For a violation of subsection (1)(a), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) For a violation of subsection (1)(b) and except as provided in subdivisions (c) to (f), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(c) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$15,000.00, or both.

(d) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than \$20,000.00, or both.

(e) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than \$25,000.00, or both.

(f) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than \$40,000.00, or both.

(3) As used in this section, "Molotov cocktail" means an improvised incendiary device that is constructed from a bottle or other container filled with a flammable or combustible material or substance and that has a wick, fuse, or other device designed or intended to ignite the contents of the device when it is thrown or placed near a target.