

List of State Identity Theft and Security Breach Notification Statutes

Please realize, the following list is not intended to provide a complete survey of all existing identity theft and security breach notification laws.

- 1) Alabama – Alabama Code § 13A-8-192 makes identity theft a crime.
- 2) Alaska – proposed in 2007, H.B. 31, proposing the Personal Information Protection Act, §§ 45.48.010 et seq. "An Act relating to breaches of security involving personal information, credit report and credit score security freezes, consumer credit monitoring, credit accuracy, protection of social security numbers, care of records, disposal of records, identity theft, furnishing consumer credit header information, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; amending Rule 60, Alaska Rules of Civil Procedure..."
- 3) Arkansas – Ark. Code § 4-110-101 *et seq.*, Personal Information Protection Act; effective March 31, 2005.
- 4) Arizona - Ariz. Rev. Stat. § 13-2008, Crime to Commit Identity Theft; §44-7501; Notification of breach of security system; enforcement; civil penalty; § 44-7601 Discarding and disposing of records containing personal identifying information; civil penalty; enforcement.
- 5) California – see:
<http://www.privacyprotection.ca.gov/lawenforcement/laws.htm#five>

California Civil Code Sections 1798.29 (applicable to government agencies) and 1798.80-1798.84 (applicable to businesses and other entities). California Civil Code Sections 1798.80 *et seq.* requires entities to establish security measures to protect individual's information and sets forth requirements for notifying individuals in the event of a security breach.

Consolidation of Identity Theft Cases - Penal Code section 786. The jurisdiction for a criminal action for ID theft offenses may be the county where the theft occurred or the county where the information was illegally used. If similar ID theft offenses occur in multiple jurisdictions, any one of those jurisdictions is a proper jurisdiction for all of the offenses.

Criminal Profiteering and Identity Theft - Penal Code section 186.2. This law adds the theft of personal identifying information to the offenses specified as criminal profiteering activity and patterns of criminal profiteering activity.

Debt Collection: Identity Theft Victim Rights - Civil Code section 1788.18. This law is intended to help identity theft victims deal with debt collectors who are trying to collect debts incurred by the thief. It requires a debt collector to stop collection when an alleged debtor furnishes a police report of identity theft and other information on his status as an identity theft victim. If a collector ultimately determines that the information fails to establish that the consumer is not responsible for the debt, the collector has to notify the consumer of that determination and its basis before proceeding with collection. The bill also helps identity theft victims clear up their records by requiring debt collectors who cease collection activities to notify the creditors and consumer credit reporting agencies to which the collector previously provided adverse information.

Document Making Devices and Identity Theft - Penal Code section 483.5. This law prohibits the possession of document-making devices with intent to use them to manufacture, alter, or authenticate a deceptive identification document. Conviction is punishable by up to one year in county jail and/or a fine of up to \$1,000.

Identity Theft: Victim Access to Records on Fraudulent Transactions or Accounts - Civil Code section 1748.95, Financial Code sections 4002 and 22470. Similar to Penal Code section 530.8, these laws require certain types of financial institutions and other businesses to release (to a victim with a police report or to the victim's law enforcement representative) information and evidence related to identity theft. See the similar provisions in the federal Fair Credit Reporting Act, section 609(e).

Identity Theft - Penal Code sections 530.5-530.8. These code sections define the specific crime of identity theft, require the law enforcement agency in the victim's area to take a police report, allow a victim to get an expedited judicial ruling of factual innocence, require the Department of Justice to establish a database of identity theft victims accessible by law enforcement and victims, and require financial institutions to release information and evidence related to identity theft to a victim with a police report or to the victim's law enforcement representative.

Identity Theft Conspiracy/DMV - Penal Code sections 182 and 529.7. Courts can impose fines of up to \$25,000 on individuals convicted of felony conspiracy to commit ID theft. This law also makes it a misdemeanor for any unauthorized person to obtain (or assist another person in obtaining) a driver's license, identification card, vehicle registration certificate, or other official document issued by the Department of Motor Vehicles, with the knowledge that the person obtaining the document is not entitled to it.

Identity Theft: Records in "Criminal" Identity Theft - Penal Code sections 853.5-853.6, Vehicle code sections 40303, 40305, 40305.5, 40500 and 40504. This law helps victims clear their records when an identity thief is arrested using the victim's name. It establishes a procedure for a victim to contest a charge by submitting a thumbprint for comparison with the thumbprint taken at the time of arrest.

Identity Theft Victim's Rights Against Claimants - Civil Code section 1798.92-1798.97. This law protects identity theft victims who are being pursued for collection of debts which have been created by identity thieves. The law gives identity theft victims the right to bring an action against a claimant who is seeking payment on a debt NOT owed by the identity theft victim. The identity theft victim may seek an injunction against the claimant, plus actual damages, costs, a civil penalty, and other relief.

Search Warrant - Penal Code section 1524. This law helps law enforcement in investigating identity theft cases by permitting a magistrate in the victim's county of residence to issue a search warrant for persons or property located in another county when the warrant is related to the identity theft.

Statute of Limitations - Penal Code section 803. This bill gives victims, law enforcement, and prosecutors a reasonable opportunity to discover and investigate the crime of identity theft by specifying that the statute of limitations for the crime (and publicly filing a false or forged document) commences when the crime was discovered, instead of when it was committed.

- 6) Colorado - § 6-1-716 concerning security breaches regarding personal identifying information
- 7) Connecticut – §36a-699f. Blocking of Information Appearing on Credit Card Report as a Result of Identity Theft.

§52-571h. Action for Damages Resulting from Identity Theft

§54-93a. Court Order to Correct Public Record Containing False Information as a Result of Identity Theft.

§53a-129a. Identity Theft Defined.

§53a-129b. Identity Theft in the First Degree: Class B Felony.

§53a-129c. Identity Theft in the Second Degree: Class C Felony.

§53a-129d. Identity Theft in the Third Degree: Class D Felony.

§53a-129e. Trafficking in Personal Identifying Information.

§53a-130. Criminal Impersonation. Class B Misdemeanor.

§53a-130a. Impersonation of a Police Officer. Class D Felony.

§54-1n. Complaint by Victim of Identity Theft. Law Enforcement Agency's Responsibilities.

- 8) Delaware - § 12B-101 *et seq.*, Computer Security Breaches.
- 9) Florida - § 501.005 Credit reporting freeze; § 817.568 Criminal act to commit identity theft.
- 10) Georgia – O.C.G.A. § 10-1-910 *et seq.*
- 11) Hawaii – Rev. Statutes, Title 26, Act 135, effec. 1-1-07. The Act applies to paper records as well as electronic.
- 12) Idaho – Idaho Code § 18-3126; § 28-51-101 *et seq.*
- 13) Illinois –Personal Information Protection Act, 815 Ill. Comp. Stat. 530/10 (effective 1-1-06)
- 14) Indiana – Ind. Code § 4-1-10 *et seq.* (effective 7-1-05); § 24-4.9 (effective 6-1-06)
- 15) Iowa – Code § 715A.8, criminal penalties for identity theft
- 16) Kansas – Statutes § 21-4018, criminal penalties for identity theft
- 17) Louisiana – Chapter 51 Database Security Breach Notification Law, § 3071 *et seq.*
- 18) Maine – Chapter 210-B § 1346 *et seq.*, the notice of risk to personal data act

- 19) Minnesota - § 325E.61 Data Warehouses – Notice for certain disclosures (effec. 1-1-06)
- 20) Montana - § 31-3-115 *et seq.* (effective 3-1-06; however, some provisions have a later effective date)
- 21) Nebraska – Nebraska statutes § 87-801 *et seq.*, Financial Data Protection & Consumer Notification of Data Security Breach Act of 2006
- 22) Nevada – Statutes Chapter 603A.10 *et seq.*, Security of Personal Information
- 23) New Hampshire – Rev. Statutes, Title XXXI, § 359-C, effective 1-1-07.
- 24) New Jersey – § 2C:21-17, Criminal penalties for identity theft; § 56:11-44 *et seq.* “Identity Theft Prevention Act” effective 1-1-07.
- 25) New York – Gen. Bus. Law § 899-aa.
- 26) North Carolina – N.C. Gen. Stat. §75-65.
- 27) North Dakota – N.D. Cent. Code § §51-30-01 *et seq.*
- 28) Ohio – Ohio Rev. Code. Ann. §1349.19.
- 29) Oklahoma – 74 Okla. Stat. § 3113.1.
- 30) Pennsylvania – 73 Pa. Cons. Stat. § 2302.
- 31) Rhode Island – R.I. Gen. Laws. § 11-49.2-1 *et seq.*
- 32) Tennessee – Tenn. Code Ann. § 47-18-2107.
- 33) Texas – Tex. Bus. & Com. Code Ann. § 48.103.
- 34) Utah – Code §§ 13-42-101 – 301, effec. 1-1-07
- 35) Vermont – “The Security Breach Notice Act,” Vermont Statutes Title 9, §§ 2430 *et seq.*, effec. 1-1-07.
- 36) Virginia - An identity thief whose crime results in financial loss up to \$200 faces a misdemeanor conviction and confinement for not more than 12 months and/or a maximum fine of \$2,500. An identity thief whose crime results in financial loss *greater than* \$200, faces a felony conviction and a

term of imprisonment of not less than one year nor more than five years.
Virginia Code §18.2-186.3.

37) Washington – Wash. Rev. Code Tit. 19.

38) West Virginia – H.B. 4551, pending.

39) Wisconsin – Wis. Stat. § 895.507.