

CHAPTER 224

AN ACT concerning false birth certificates and amending P.L.1983, c.565, N.J.S.2C:21-17, P.L.2002, c.85 and P.L.2003, c.184.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1983, c.565 (C.2C:21-2.1) is amended to read as follows:

C.2C:21-2.1 Offenses involving false government documents, degree of crime.

1. a. A person who knowingly sells, offers or exposes for sale, or otherwise transfers, or possesses with the intent to sell, offer or expose for sale, or otherwise transfer, a document, printed form or other writing which falsely purports to be a driver's license, birth certificate or other document issued by a governmental agency and which could be used as a means of verifying a person's identity or age or any other personal identifying information is guilty of a crime of the second degree.

b. A person who knowingly makes, or possesses devices or materials to make, a document or other writing which falsely purports to be a driver's license, birth certificate or other document issued by a governmental agency and which could be used as a means of verifying a person's identity or age or any other personal identifying information is guilty of a crime of the second degree.

c. A person who knowingly exhibits, displays or utters a document or other writing which falsely purports to be a driver's license, birth certificate or other document issued by a governmental agency and which could be used as a means of verifying a person's identity or age or any other personal identifying information is guilty of a crime of the third degree. A violation of N.J.S.2C:28-7, constituting a disorderly persons offense, section 1 of P.L.1979, c.264 (C.2C:33-15), R.S.33:1-81 or section 6 of P.L.1968, c.313 (C.33:1-81.7) in a case where the person uses the personal identifying information of another to illegally purchase an alcoholic beverage or for using the personal identifying information of another to misrepresent his age for the purpose of obtaining tobacco or other consumer product denied to persons under 18 years of age shall not constitute an offense under this subsection if the actor received only that benefit or service and did not perpetrate or attempt to perpetrate any additional injury or fraud on another.

d. A person who knowingly possesses a document or other writing which falsely purports to be a driver's license, birth certificate or other document issued by a governmental agency and which could be used as a means of verifying a person's identity or age or any other personal identifying information is guilty of a crime of the fourth degree. A violation of N.J.S.2C:28-7, constituting a disorderly persons offense, section 1 of P.L.1979, c.264 (C.2C:33-15), R.S.33:1-81 or section 6 of P.L.1968, c.313 (C.33:1-81.7) in a case where the person uses the personal identifying information of another to illegally purchase an alcoholic beverage or for using the personal identifying information of another to misrepresent his age for the purpose of obtaining tobacco or other consumer product denied to persons under 18 years of age shall not constitute an offense under this subsection if the actor received only that benefit or service and did not perpetrate or attempt to perpetrate any additional injury or fraud on another.

e. In addition to any other disposition authorized by this Title, the provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43), or any other statute indicating the dispositions that may be ordered for an adjudication of delinquency, and, notwithstanding the provisions of subsection c. of N.J.S.2C:43-2, every person convicted of or adjudicated delinquent for a violation of any offense defined in this section shall forthwith forfeit his right to operate a motor vehicle over the highways of this State for a period to be fixed by the court at not less than six months or more than two years which shall commence on the day the sentence is imposed. In the case of any person who at the time of the imposition of the sentence is less than 17 years of age, the period of the suspension of driving privileges authorized herein, including a suspension of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period as fixed by the court of not less than six months or more than two years after the day the person reaches the age of 17 years. If the driving privilege of any person is under revocation, suspension, or postponement for a violation of any provision of this Title or Title 39 of the Revised Statutes at the time of any conviction or adjudication of delinquency for a violation of any offense defined in this chapter or chapter 36 of this Title, the revocation,

suspension, or postponement period imposed herein shall commence as of the date of termination of the existing revocation, suspension or postponement.

The court before whom any person is convicted of or adjudicated delinquent for a violation of any offense defined in this section shall collect forthwith the New Jersey driver's license or licenses of that person and forward the license or licenses to the Chief Administrator of the New Jersey Motor Vehicle Commission along with a report indicating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If the court is for any reason unable to collect the license or licenses of the person, the court shall cause a report of the conviction or adjudication of delinquency to be filed with the director. The report shall include the complete name, address, date of birth, eye color and sex of the person and shall indicate the first and last day of the suspension or postponement period imposed by the court pursuant to this section. The court shall inform the person orally and in writing that if the person is convicted of personally operating a motor vehicle during the period of license suspension or postponement imposed pursuant to this section, the person shall, upon conviction, be subject to the penalties set forth in R.S.39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of R.S.39:3-40. If the person is the holder of a driver's license from another jurisdiction, the court shall not collect the license, but shall notify forthwith the director who shall notify the appropriate officials in that licensing jurisdiction. The court shall, however, in accordance with the provisions of this section, revoke the person's non-resident driving privileges in this State.

In addition to any other condition imposed, a court, in its discretion, may suspend, revoke or postpone the driving privileges of a person admitted to supervisory treatment under N.J.S.2C:36A-1 or N.J.S.2C:43-12 without a plea of guilty or finding of guilt.

2. N.J.S.2C:21-17 is amended to read as follows:

Impersonation; theft of identity; crime.

2C:21-17. Impersonation; Theft of Identity; crime.

a. A person is guilty of an offense if the person:

(1) Impersonates another or assumes a false identity and does an act in such assumed character or false identity for the purpose of obtaining a benefit for himself or another or to injure or defraud another;

(2) Pretends to be a representative of some person or organization and does an act in such pretended capacity for the purpose of obtaining a benefit for himself or another or to injure or defraud another;

(3) Impersonates another, assumes a false identity or makes a false or misleading statement regarding the identity of any person, in an oral or written application for services, for the purpose of obtaining services;

(4) Obtains any personal identifying information pertaining to another person and uses that information, or assists another person in using the information, in order to assume the identity of or represent himself as another person, without that person's authorization and with the purpose to fraudulently obtain or attempt to obtain a benefit or services, or avoid the payment of debt or other legal obligation or avoid prosecution for a crime by using the name of the other person; or

(5) Impersonates another, assumes a false identity or makes a false or misleading statement, in the course of making an oral or written application for services, with the purpose of avoiding payment for prior services. Purpose to avoid payment for prior services may be presumed upon proof that the person has not made full payment for prior services and has impersonated another, assumed a false identity or made a false or misleading statement regarding the identity of any person in the course of making oral or written application for services.

As used in this section:

"Benefit" means, but is not limited to, any property, any pecuniary amount, any services, any pecuniary amount sought to be avoided or any injury or harm perpetrated on another where there is no pecuniary value.

b. (Deleted by amendment, P.L.2005, c.224).

c. A person who violates subsection a. of this section is guilty of a crime as follows:

(1) If the actor obtains a benefit or deprives another of a benefit in an amount less than \$500 and the offense involves the identity of one victim, the actor shall be guilty of a crime of the fourth degree except that a second or subsequent conviction for such an offense constitutes a crime of the third degree; or

(2) If the actor obtains a benefit or deprives another of a benefit in an amount of at least \$500 but less than \$75,000, or the offense involves the identity of at least two but less than five victims, the actor shall be guilty of a crime of the third degree; or

(3) If the actor obtains a benefit or deprives another of a benefit in the amount of \$75,000 or more, or the offense involves the identity of five or more victims, the actor shall be guilty of a crime of the second degree.

d. A violation of N.J.S.2C:28-7, constituting a disorderly persons offense, section 1 of P.L.1979, c.264 (C.2C:33-15), R.S.33:1-81 or section 6 of P.L.1968, c.313 (C.33:1-81.7) in a case where the person uses the personal identifying information of another to illegally purchase an alcoholic beverage or for using the personal identifying information of another to misrepresent his age for the purpose of obtaining tobacco or other consumer product denied to persons under 18 years of age shall not constitute an offense under this section if the actor received only that benefit or service and did not perpetrate or attempt to perpetrate any additional injury or fraud on another.

e. The sentencing court shall issue such orders as are necessary to correct any public record or government document that contains false information as a result of a theft of identity. The sentencing court may provide restitution to the victim in accordance with the provisions of section 4 of P.L.2002, c.85 (C.2C:21-17.1).

3. Section 4 of P.L.2002, c.85 (C.2C:21-17.1) is amended to read as follows:

C.2C:21-17.1 Restitution to victim of unlawful use of personal identifying information.

4. Restitution to a victim of an offense under N.J.S.2C:21-1, section 1 of P.L.1983, c.565 (C.2C:21-2.1), N.J.S.2C:21-17, section 5 of P.L.2003, c.184 (C.2C:21-17.2) or section 6 of P.L. 2003, c.184 (C.2C:21-17.3) when the offense concerns personal identifying information may include costs incurred by the victim:

a. in clearing the credit history or credit rating of the victim; or

b. in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.

4. Section 5 of P.L.2003, c.184 (C.2C:21-17.2) is amended to read as follows:

C.2C:21-17.2 Use of personal identifying information of another, certain; second degree crime.

5. a. A person is guilty of a crime of the second degree if, in obtaining or attempting to obtain a driver's license, birth certificate or other document issued by a governmental agency which could be used as a means of verifying a person's identity, age or any other personal identifying information, that person knowingly exhibits, displays or utters a document or other writing which falsely purports to be a driver's license, birth certificate or other document issued by a governmental agency or which belongs or pertains to a person other than the person who possesses the document.

b. Notwithstanding the provisions of N.J.S.2C:1-8 or any other law, a conviction under this section shall not merge with a conviction of any other criminal offense, nor shall such other conviction merge with a conviction under this section, and the court shall impose separate sentences upon each violation of this section and any other criminal offense.

c. A violation of N.J.S.2C:28-7, constituting a disorderly persons offense, section 1 of P.L.1979, c.264 (C.2C:33-15), R.S.33:1-81 or section 6 of P.L.1968, c.313 (C.33:1-81.7) in a case where the person uses the personal identifying information of another to illegally purchase an alcoholic beverage or for using the personal identifying information of another to misrepresent his age for the purpose of obtaining tobacco or other consumer product denied to persons under

18 years of age shall not constitute an offense under this section if the actor received only that benefit or service and did not perpetrate or attempt to perpetrate any additional injury or fraud on another.

5. Section 7 of P.L.2003, c.184 (C.2C:21-17.4) is amended to read as follows:

C.2C:21-17.4 Action by person defrauded by unauthorized use of personal identifying information.

7. a. Any person who suffers any ascertainable loss of moneys or property, real or personal, as a result of the use of that person's personal identifying information, in violation of N.J.S.2C:21-1, section 1 of P.L.1983, c.565 (2C:21-2.1), N.J.S.2C:21-17, section 5 of P.L.2003, c.184 (C.2C:21-17.2) or section 6 of P.L.2003, c.184 (C.2C:21-17.3), may bring an action in any court of competent jurisdiction. In any action under this section the court shall, in addition to any other appropriate legal or equitable relief, award damages in an amount three times the value of all costs incurred by the victim as a result of the person's criminal activity. These costs may include, but are not limited to, those incurred by the victim in clearing his credit history or credit rating, or those incurred in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant. The victim may also recover those costs incurred for attorneys' fees, court costs and any out-of-pocket losses. A financial institution, insurance company, bonding association or business that suffers direct financial loss as a result of the offense shall also be entitled to damages, but damages to natural persons shall be fully satisfied prior to any payment to a financial institution, insurance company, bonding association or business.

b. The standard of proof in actions brought under this section is a preponderance of the evidence, and the fact that a prosecution for a violation of N.J.S.2C:21-1, section 1 of P.L.1983, c.565 (2C:21-2.1) or N.J.S.2C:21-17 is not instituted or, where instituted, terminates without a conviction shall not preclude an action pursuant to this section. A final judgment rendered in favor of the State in any criminal proceeding shall estop the defendant from denying the same conduct in any civil action brought pursuant to this section.

c. The cause of action authorized by this section shall be in addition to and not in lieu of any forfeiture or any other action, injunctive relief or any other remedy available at law, except that where the defendant is convicted of a violation of this act, the court in the criminal action, upon the application of the Attorney General or the prosecutor, shall in addition to any other disposition authorized by this Title sentence the defendant to pay restitution in an amount equal to the costs incurred by the victim as a result of the defendant's criminal activity, regardless of whether a civil action has been instituted. These costs may include, but are not limited to those incurred by the victim in clearing his credit history or credit rating; those incurred in connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant; or those incurred for attorneys' fees, court costs and any out-of-pocket losses. A financial institution, insurance company, bonding association or business that suffers direct financial loss as a result of the offense shall also be entitled to restitution, but restitution to natural persons shall be fully satisfied prior to any payment to a financial institution, insurance company, bonding association or business.

6. Section 8 of P.L.2003, c.184 (C.2C:21-17.5) is amended to read as follows:

C.2C:21-17.5 Deletion of certain items from victim's consumer reporting files.

8. a. On motion of a person who has been the victim of a violation of N.J.S.2C:21-1, section 1 of P.L.1983, c.565 (C.2C:21-2.1), N.J.S.2C:21-17, section 5 of P.L.2003, c.184 (C.2C:21-17.2) or section 6 of P.L.2003, c.184 (C.2C:21-17.3), or on its own motion, the court may, without a hearing, grant an order directing all consumer reporting agencies doing business within the State of New Jersey to delete those items of information from the victim's file that were the result of the unlawful use of the victim's personal identifying information. The consumer reporting agency shall thereafter, provide the victim with a copy of the corrected credit history report at no charge.

b. Following any deletion of information pursuant to this section, the consumer reporting agency shall, at the request of the victim, furnish notification that the item has been deleted, to any person specifically designated by the victim who has within two years prior thereto received a consumer report for employment purposes, or within one year prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information.

7. This act shall take effect immediately.

Approved September 22, 2005.