

# ASSEMBLY, No. 1755

## STATE OF NEW JERSEY 213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

**Sponsored by:**

**Assemblywoman BONNIE WATSON COLEMAN**

**District 15 (Mercer)**

**Assemblywoman ELEASE EVANS**

**District 35 (Bergen and Passaic)**

**SYNOPSIS**

Allows identity theft victims to petition for judicial determination of factual innocence.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 11/24/2009)**

1 AN ACT concerning identity theft and supplementing Title 2C of the  
2 New Jersey Statutes.

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

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7 1. a. A person who reasonably believes that he is the victim of  
8 identity theft in violation of N.J.S. 2C:21-1, section 1 of P.L.1983,  
9 c. 565 (C.2C:21-2.1) or N.J.S.2C:21-17 may petition a court, or the  
10 court, on its own motion or upon application of the prosecuting  
11 attorney, may move for an expedited judicial determination of his  
12 factual innocence, where a defendant was charged with, arrested for  
13 or convicted of a crime under the victim's identity, or where a  
14 criminal complaint has been filed against a defendant in the victim's  
15 name, or where the victim's identity has been mistakenly associated  
16 with a record of criminal conviction. Any judicial determination of  
17 factual innocence made pursuant to this section may be heard and  
18 determined upon declarations, affidavits, police reports, or other  
19 material, relevant and reliable information submitted by the parties  
20 or ordered to be part of the record by the court. Where the court  
21 determines that the petition or motion is meritorious and that there  
22 is no reasonable cause to believe that the victim committed the  
23 offense for which a defendant was arrested, charged, convicted, or  
24 subject to a criminal complaint in the victim's name, or that the  
25 victim's identity has been mistakenly associated with a record of  
26 criminal conviction, the court shall find the victim factually  
27 innocent of that offense. If the victim is found factually innocent,  
28 the court shall issue an order certifying this determination.

29 b. After a court has issued a determination of factual innocence  
30 pursuant to this section, the court may order the name and  
31 associated personal identifying information contained in court  
32 records, files, and indexes accessible by the public be deleted,  
33 sealed, or labeled to show that the data is impersonated and does  
34 not reflect the defendant's identity.

35 c. Upon making a determination of factual innocence, the court  
36 shall provide the victim written documentation of such order.

37 d. A court that has issued a determination of factual innocence  
38 pursuant to this section may at any time vacate that determination if  
39 the petition, or any information submitted in support of the petition,  
40 is found to contain any material misrepresentation or fraud.

41 e. The Administrative Office of the Courts shall develop a form  
42 for use in issuing an order pursuant to this section.

43 f. The Administrative Office of the Courts shall establish and  
44 maintain a database of persons who have been victims of identity  
45 theft and that have received determinations of factual innocence.  
46 The Administrative Office of the Courts shall provide a victim of  
47 identity theft or his authorized representative access to the database  
48 in order to establish that the person has been a victim of identity

1 theft. Access to the database shall be limited to criminal justice  
2 agencies, victims of identity theft, and any other persons and  
3 agencies authorized by the victims.

4 g. The Administrative Office of the Courts shall establish and  
5 maintain a toll free number to provide access to information under  
6 subsection f. of this section.

7 h. In order for a victim of identity theft to be included in the  
8 database established pursuant to subsection f. of this section, he  
9 shall submit to the Administrative Office of the Courts a court  
10 order, a full set of fingerprints and any other information prescribed  
11 by the Administrative Office of the Courts.

12 i. Upon receiving information pursuant to subsection h. of this  
13 section, the Administrative Office of the Courts shall verify the  
14 identity of the victim against any driver's license or other  
15 identification record maintained by the New Jersey Motor Vehicle  
16 Commission.

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18 2. This act shall take effect immediately.

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#### STATEMENT

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23 This bill establishes a procedure whereby a victim of identity  
24 theft can obtain a factual determination of innocence. Under the  
25 provisions of the bill, if a person reasonably believes that he is a  
26 victim of identity theft that person, or the court on its motion or  
27 upon application by the prosecuting attorney, may move for an  
28 expedited judicial determination of factual innocence if a defendant  
29 has been arrested for, charged with or convicted of a crime under  
30 the victims identity or where a criminal complaint has been filed  
31 against a defendant in the victim's name or if the victim's identity  
32 has been mistakenly associated with a record of criminal  
33 conviction. If the court determines that the petition or motion is  
34 meritorious and that the victim has not committed the offense, the  
35 court is to issue a judicial determination of factual innocence.  
36 After an order has been issued, the court may order that the name  
37 and personal identifying information of the victim contained in  
38 court records, files and indexes be deleted, sealed or labeled to  
39 show that the data is impersonated and does not reflect the victim's  
40 identity.

41 The bill also requires the Administrative Office of the Courts  
42 (AOC) to establish and maintain a database of persons who have  
43 been victims of identity theft and who have received determinations  
44 of factual innocence. Access to the database is to be limited to  
45 criminal justice agencies, victims of identity theft and any other  
46 persons and agencies authorized by a victim. The AOC also is  
47 directed to establish a toll free number to provide access  
48 information to victims of identity theft.