



Legislation Text

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Res. No. 869

Resolution calling on the New York State Legislature to pass A.3838/S.737-A, which would strengthen identity theft laws in the State of New York.

By Council Members Vallone, Fidler, Gentile, Recchia, Rose, Williams, Nelson and Koo

Whereas, According to the Federal Trade Commission (FTC), 1.3 million Americans had their identity stolen in 2009, accounting for losses totaling over \$1.7 billion; and

Whereas, That same year, New Yorkers made 18,906 identity theft complaints to the FTC Consumer Sentinel Network, a database of consumer complaints, ranking fourth in the nation for total volume of complaints; and

Whereas, According to Article 190.78 of the New York State Penal Law, a person is guilty of identity theft in the third degree, a class A misdemeanor, if he or she “knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person and thereby” and either “obtains goods, money, property or services or uses credit in the name of such other person or causes financial loss to such person or to another person or persons” or commits a crime at the level of a class A misdemeanor or higher; and

Whereas, Identity theft in the first and second degrees are class D and E felonies, respectively, and apply to identity theft above certain monetary thresholds and to repeat offenders; and

Whereas, Currently, the most severe charge for identity theft in New York State carries a maximum penalty of seven years in prison and can only be applied if the alleged perpetrator caused a “monetary loss of over \$2,000, committed another D felony or higher offense, or had a prior conviction for identity theft, unlawful possession of personal identifying information or grand larceny”; and

Whereas, Though identity theft in New York State can be prosecuted across county borders, the crimes that accompany it, such as larceny, can only be prosecuted in the counties in which they took place, potentially resulting in an inefficient and fragmented prosecution of the crimes; and

Whereas, If passed, A.3838/S.737-A, introduced by Assembly Member Jonathan Bing and Senator Dan Squadron, respectively, would address the issue of identity theft in New York State by eliminating bureaucratic obstacles to prosecuting identity theft-associated crimes across county borders, increasing penalties for identity crimes based on the degree of their severity; and making technical corrections to existing identity theft statutes; and

Whereas, Specifically, A.3838/S.737-A would remove all parts of Penal Law Article 190 that mention identity theft crimes and replace them in a new Penal Law Article 191, which would create the A misdemeanor of Petit Identity Theft, the E felony of Identity Theft in the Fourth Degree, the D felony of Identity Theft in the Third Degree, the C felony of Identity Theft in the Second Degree and the B felony of Identity Theft in the First Degree; and

Whereas, By creating a new Penal Law Article 191, A.3838/S.737-A would enhance the criminalization of identity theft by tying the penalty to the severity of the crime as determined by monetary damage and number of persons victimized; and

Whereas, A.3838/S.737-A would also increase penalties for acts of identity theft committed against the elderly, the disabled, and members of the military currently deployed outside the United States; and

Whereas, Because identity theft and the crimes associated with it are often committed across county borders, A.3838/S.737-A would allow the crime of identity theft and its companion crimes to be prosecuted collectively in (i) the county where the crime of identity theft or its companion crimes took place, (ii) the county in which the victim of identity theft resides, or (iii) the county in which the person who incurred monetary injury as a result of the identity theft resides; and

Whereas, A.3838/S.737-A would also standardize some of the terminology used in Unlawful Possession

of Personal Identification Information in the First, Second and Third degrees by replacing references to “personal identification information” with “personal identifying information;” and

Whereas, Finally, A.3838/S.737-A would also define the terms “medical information” and “health insurance information” and amend the General Business Law and State Technology Law to include them on the list of identifying items; and

Whereas, In order to effectively combat identity theft crimes, it is necessary that New York State prosecutors and law enforcement professionals be armed with the toughest laws possible; now, therefore, be it Resolved, That the Council of the City of New York calls on the New York State Legislature to pass A.3838/S.737-A, which would strengthen identity theft laws in the State of New York.

DMB
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