

HOUSE BILL No. 1236

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-43-5.

Synopsis: Identity deception. Makes it identity deception, a Class D felony, for a person to obtain, possess, transfer, or use the identifying information of another person, including the identifying information of a person who is deceased: (1) without the other person's consent; and (2) with intent to intimidate or threaten another person. Makes it synthetic identity deception, a Class D felony, for a person to obtain, possess, transfer, or use synthetic identifying information with intent to intimidate or threaten another person.

Effective: July 1, 2013.

Battles, GiaQuinta

January 14, 2013, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1236



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-5-3.5, AS AMENDED BY P.L.137-2009,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 3.5. (a) Except as provided in subsection (c), a
4 person who knowingly or intentionally obtains, possesses, transfers, or
5 uses the identifying information of another person, including the
6 identifying information of a person who is deceased:
7 (1) without the other person's consent; and
8 (2) with intent to:
9 (A) harm, or defraud, **intimidate, or threaten** another person;
10 (B) assume another person's identity; or
11 (C) profess to be another person;
12 commits identity deception, a Class D felony.
13 (b) However, the offense defined in subsection (a) is a Class C
14 felony if:
15 (1) a person obtains, possesses, transfers, or uses the identifying
16 information of more than one hundred (100) persons;
17 (2) the fair market value of the fraud or harm caused by the



1 offense is at least fifty thousand dollars (\$50,000); or
 2 (3) a person obtains, possesses, transfers, or uses the identifying
 3 information of a person who is less than eighteen (18) years of
 4 age and is:

- 5 (A) the person's son or daughter;
 6 (B) a dependent of the person;
 7 (C) a ward of the person; or
 8 (D) an individual for whom the person is a guardian.

9 (c) The conduct prohibited in subsections (a) and (b) does not apply
 10 to:

11 (1) a person less than twenty-one (21) years of age who uses the
 12 identifying information of another person to acquire an alcoholic
 13 beverage (as defined in IC 7.1-1-3-5);

14 (2) a minor (as defined in IC 35-49-1-4) who uses the identifying
 15 information of another person to acquire:

- 16 (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
 17 (B) a periodical, a videotape, or other communication medium
 18 that contains or depicts nudity (as defined in IC 35-49-1-5);
 19 (C) admittance to a performance (live or film) that prohibits
 20 the attendance of the minor based on age; or
 21 (D) an item that is prohibited by law for use or consumption by
 22 a minor; or

23 (3) any person who uses the identifying information for a lawful
 24 purpose.

25 (d) It is not a defense in a prosecution under:

- 26 **(1) subsection (a) or (b) that no person was harmed, or defrauded,**
 27 **intimidated, or threatened; and**
 28 **(2) subsection (b) that no person was harmed or defrauded.**

29 SECTION 2. IC 35-43-5-3.8, AS ADDED BY P.L.137-2009,
 30 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2013]: Sec. 3.8. (a) A person who knowingly or intentionally
 32 obtains, possesses, transfers, or uses ~~the~~ synthetic identifying
 33 information:

- 34 (1) with intent to harm, or defraud, **intimidate, or threaten**
 35 another person;
 36 (2) with intent to assume another person's identity; or
 37 (3) with intent to profess to be another person;

38 commits synthetic identity deception, a Class D felony.

39 (b) The offense under subsection (a) is a Class C felony if:

- 40 (1) a person obtains, possesses, transfers, or uses the synthetic
 41 identifying information of more than one hundred (100) persons;
 42 or

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- 1 (2) the fair market value of the fraud or harm caused by the
- 2 offense is at least fifty thousand dollars (\$50,000).
- 3 (c) The conduct prohibited in subsections (a) and (b) does not apply
- 4 to:
- 5 (1) a person less than twenty-one (21) years of age who uses the
- 6 synthetic identifying information of another person to acquire an
- 7 alcoholic beverage (as defined in IC 7.1-1-3-5); or
- 8 (2) a minor (as defined in IC 35-49-1-4) who uses the synthetic
- 9 identifying information of another person to acquire:
- 10 (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
- 11 (B) a periodical, a videotape, or other communication medium
- 12 that contains or depicts nudity (as defined in IC 35-49-1-5);
- 13 (C) admittance to a performance (live or on film) that prohibits
- 14 the attendance of the minor based on age; or
- 15 (D) an item that is prohibited by law for use or consumption by
- 16 a minor.
- 17 (d) It is not a defense in a prosecution under:
- 18 **(1) subsection (a) ~~or (b)~~ that no person was harmed, or defrauded,**
- 19 **intimidated, or threatened; and**
- 20 **(2) subsection (b) that no person was harmed or defrauded.**

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