



## Ohio Revised Code Section 2913.49 Identity fraud.

Effective: March 20, 2019

Legislation: Senate Bill 158 - 132nd General Assembly

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(A) As used in this section, "personal identifying information" includes, but is not limited to, the following: the name, address, telephone number, driver's license, driver's license number, commercial driver's license, commercial driver's license number, state identification card, state identification card number, social security card, social security number, birth certificate, place of employment, employee identification number, mother's maiden name, demand deposit account number, savings account number, money market account number, mutual fund account number, other financial account number, personal identification number, password, or credit card number of a living or dead individual.

(B) No person, without the express or implied consent of the other person, shall use, obtain, or possess any personal identifying information of another person with intent to do either of the following:

(1) Hold the person out to be the other person;

(2) Represent the other person's personal identifying information as the person's own personal identifying information.

(C) No person shall create, obtain, possess, or use the personal identifying information of any person with the intent to aid or abet another person in violating division (B) of this section.

(D) No person, with intent to defraud, shall permit another person to use the person's own personal identifying information.

(E) No person who is permitted to use another person's personal identifying information as described in division (D) of this section shall use, obtain, or possess the other person's personal identifying information with intent to defraud any person by doing any act identified in division (B)(1) or (2) of this section.



(F)(1) It is an affirmative defense to a charge under division (B) of this section that the person using the personal identifying information is acting in accordance with a legally recognized guardianship or conservatorship or as a trustee or fiduciary.

(2) It is an affirmative defense to a charge under division (B), (C), (D), or (E) of this section that either of the following applies:

(a) The person or entity using, obtaining, possessing, or creating the personal identifying information or permitting it to be used is a law enforcement agency, authorized fraud personnel, or a representative of or attorney for a law enforcement agency or authorized fraud personnel and is using, obtaining, possessing, or creating the personal identifying information or permitting it to be used, with prior consent given as specified in this division, in a bona fide investigation, an information security evaluation, a pretext calling evaluation, or a similar matter. The prior consent required under this division shall be given by the person whose personal identifying information is being used, obtained, possessed, or created or is being permitted to be used or, if the person whose personal identifying information is being used, obtained, possessed, or created or is being permitted to be used is deceased, by that deceased person's executor, or a member of that deceased person's family, or that deceased person's attorney. The prior consent required under this division may be given orally or in writing by the person whose personal identifying information is being used, obtained, possessed, or created or is being permitted to be used or that person's executor, or family member, or attorney.

(b) The personal identifying information was obtained, possessed, used, created, or permitted to be used for a lawful purpose, provided that division (F)(2)(b) of this section does not apply if the person or entity using, obtaining, possessing, or creating the personal identifying information or permitting it to be used is a law enforcement agency, authorized fraud personnel, or a representative of or attorney for a law enforcement agency or authorized fraud personnel that is using, obtaining, possessing, or creating the personal identifying information or permitting it to be used in an investigation, an information security evaluation, a pretext calling evaluation, or similar matter.

(G) It is not a defense to a charge under this section that the person whose personal identifying information was obtained, possessed, used, created, or permitted to be used was deceased at the time



of the offense.

(H)(1) If an offender commits a violation of division (B), (D), or (E) of this section and the violation occurs as part of a course of conduct involving other violations of division (B), (D), or (E) of this section or violations of, attempts to violate, conspiracies to violate, or complicity in violations of division (C) of this section or section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised Code, the court, in determining the degree of the offense pursuant to division (I) of this section, may aggregate all credit, property, or services obtained or sought to be obtained by the offender and all debts or other legal obligations avoided or sought to be avoided by the offender in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.

(2) If an offender commits a violation of division (C) of this section and the violation occurs as part of a course of conduct involving other violations of division (C) of this section or violations of, attempts to violate, conspiracies to violate, or complicity in violations of division (B), (D), or (E) of this section or section 2913.02, 2913.04, 2913.11, 2913.21, 2913.31, 2913.42, 2913.43, or 2921.13 of the Revised Code, the court, in determining the degree of the offense pursuant to division (I) of this section, may aggregate all credit, property, or services obtained or sought to be obtained by the person aided or abetted and all debts or other legal obligations avoided or sought to be avoided by the person aided or abetted in the violations involved in that course of conduct. The course of conduct may involve one victim or more than one victim.

(I)(1) Whoever violates this section is guilty of identity fraud.

(2) Except as otherwise provided in this division or division (I)(3) of this section, identity fraud is a felony of the fifth degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is one thousand dollars or more and is less than seven thousand five hundred dollars, except as otherwise provided in division (I)(3) of this section, identity fraud is a felony of the fourth degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, except as otherwise provided in division (I)(3) of this section, identity fraud is a felony of the third degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is one hundred



fifty thousand dollars or more, except as otherwise provided in division (I)(3) of this section, identity fraud is a felony of the second degree.

(3) If the victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, a violation of this section is identity fraud against a person in a protected class. Except as otherwise provided in this division, identity fraud against a person in a protected class is a felony of the fourth degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is one thousand dollars or more and is less than seven thousand five hundred dollars, identity fraud against a person in a protected class is a felony of the third degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, identity fraud against a person in a protected class is a felony of the second degree. If the value of the credit, property, services, debt, or other legal obligation involved in the violation or course of conduct is one hundred fifty thousand dollars or more, identity fraud against a person in a protected class is a felony of the first degree. If the victim of the offense is an elderly person, in addition to any other penalty imposed for the offense, the offender shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars. The clerk of court shall forward all fines collected under division (I)(3) of this section to the county department of job and family services to be used for the reporting and investigation of elder abuse, neglect, and exploitation or for the provision or arrangement of protective services under sections 5101.61 to 5101.71 of the Revised Code.

(J) In addition to the penalties described in division (I) of this section, anyone injured in person or property by a violation of division (B), (D), or (E) of this section who is the owner of the identifying information involved in that violation has a civil action against the offender pursuant to section 2307.60 of the Revised Code. That person may also bring a civil action to enjoin or restrain future acts that would constitute a violation of division (B), (D), or (E) of this section.