



A Proclamation by the Governor

WHEREAS, under the provisions of Article II, Section 1 of the Constitution of the State of Washington, there was submitted to the electorate of the State of Washington for their approval or rejection at the state general election held on the 8th day of November, 2016, an initiative to the people, identified as Initiative Measure No. 1501 and entitled:

Initiative Measure No. 1501 concerns seniors and vulnerable individuals.

This measure would increase the penalties for criminal identity theft and civil consumer fraud targeted at seniors or vulnerable individuals; and exempt certain information of vulnerable individuals and in-home caregivers from public disclosure.

WHEREAS, Kim Wyman, as Secretary of State, has on the 7th day of December, 2016, canvassed the votes cast on this measure at the state general election and certified that 2,247,906 votes were cast in favor of Initiative Measure No. 1501 and 934,365 votes were cast against Initiative Measure No. 1501; and

WHEREAS, as appears from this certification, a majority of the votes cast on this proposition at the state general election were in favor of its adoption;

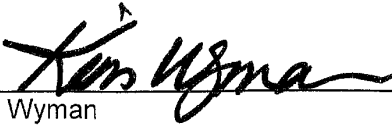
NOW, THEREFORE, I, Jay Inslee, Governor of the State of Washington, do hereby proclaim that the proposed law as set forth in Initiative Measure No. 1501 was approved by the voters of the State of Washington.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed this 7th day of December, 2016.


Jay Inslee
Governor

ATTEST:


Kim Wyman
Secretary of State

INITIATIVE 1501

To the People

Chapter 4, Laws of 2017

IDENTITY THEFT--FRAUD--PUBLIC RECORDS--SENIORS AND VULNERABLE
INDIVIDUALS

EFFECTIVE DATE: December 8, 2016

Approved by the
People of the State of Washington
in the General Election on
November 8, 2016

ORIGINALLY FILED

March 3, 2016

Secretary of State

1 AN ACT Relating to the protection of seniors and vulnerable
2 individuals from financial crimes and victimization; amending RCW
3 9.35.005, 9.35.001, and 9.35.020; adding a new section to chapter
4 42.56 RCW and chapter 43.17 RCW; creating new sections; and
5 prescribing penalties.

6 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** This act may be known and cited as the
8 seniors and vulnerable individuals' safety and financial crimes
9 prevention act.

10 NEW SECTION. **Sec. 2.** It is the intent of this initiative to
11 protect the safety and security of seniors and vulnerable individuals
12 by (1) increasing criminal penalties for identity theft targeting
13 seniors and vulnerable individuals; (2) increasing penalties for
14 consumer fraud targeting seniors and vulnerable individuals; and (3)
15 prohibiting the release of certain public records that could
16 facilitate identity theft and other financial crimes against seniors
17 and vulnerable individuals.

18 **Sec. 3.** RCW 9.35.005 and 2001 c 217 s 1 are each amended to read
19 as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Financial information" means any of the following
4 information identifiable to the individual that concerns the amount
5 and conditions of an individual's assets, liabilities, or credit:

6 (a) Account numbers and balances;

7 (b) Transactional information concerning an account; and

8 (c) Codes, passwords, social security numbers, tax identification
9 numbers, driver's license or permit numbers, state identicard numbers
10 issued by the department of licensing, and other information held for
11 the purpose of account access or transaction initiation.

12 (2) "Financial information repository" means a person engaged in
13 the business of providing services to customers who have a credit,
14 deposit, trust, stock, or other financial account or relationship
15 with the person.

16 (3) "Means of identification" means information or an item that
17 is not describing finances or credit but is personal to or
18 identifiable with an individual or other person, including: A current
19 or former name of the person, telephone number, an electronic
20 address, or identifier of the individual or a member of his or her
21 family, including the ancestor of the person; information relating to
22 a change in name, address, telephone number, or electronic address or
23 identifier of the individual or his or her family; a social security,
24 driver's license, or tax identification number of the individual or a
25 member of his or her family; and other information that could be used
26 to identify the person, including unique biometric data.

27 (4) "Person" means a person as defined in RCW 9A.04.110.

28 (5) "Senior" means a person over the age of sixty-five.

29 (6) "Victim" means a person whose means of identification or
30 financial information has been used or transferred with the intent to
31 commit, or to aid or abet, any unlawful activity.

32 (7) "Vulnerable individual" means a person:

33 (i) Sixty years of age or older who has the functional, mental,
34 or physical inability to care for himself or herself;

35 (ii) Found incapacitated under chapter 11.88 RCW;

36 (iii) Who has a developmental disability as defined under RCW
37 71A.10.020;

38 (iv) Admitted to any facility;

1 (v) Receiving services from home health, hospice, or home care
2 agencies licensed or required to be licensed under chapter 70.127
3 RCW;

4 (vi) Receiving services from an individual provider as defined in
5 RCW 74.39A.240; or

6 (vii) Who self-directs his or her own care and receives services
7 from a personal aide under chapter 74.39 RCW.

8 **PART I**

9 **INCREASING CRIMINAL PENALTIES FOR IDENTITY THEFT**

10 **TARGETING SENIORS OR VULNERABLE INDIVIDUALS**

11 **Sec. 4.** RCW 9.35.001 and 2008 c 207 s 3 are each amended to read
12 as follows:

13 (1) The legislature finds that means of identification and
14 financial information are personal and sensitive information such
15 that if unlawfully obtained, possessed, used, or transferred by
16 others may result in significant harm to a person's privacy,
17 financial security, and other interests. The legislature finds that
18 unscrupulous persons find ever more clever ways, including identity
19 theft, to improperly obtain, possess, use, and transfer another
20 person's means of identification or financial information. The
21 legislature intends to penalize for each unlawful act of improperly
22 obtaining, possessing, using, or transferring means of identification
23 or financial information of an individual person. The unit of
24 prosecution for identity theft by use of a means of identification or
25 financial information is each individual unlawful use of any one
26 person's means of identification or financial information. Unlawfully
27 obtaining, possessing, or transferring each means of identification
28 or financial information of any individual person, with the requisite
29 intent, is a separate unit of prosecution for each victim and for
30 each act of obtaining, possessing, or transferring of the individual
31 person's means of identification or financial information.

32 (2) The people find that additional measures are needed to
33 protect seniors and vulnerable individuals from identity theft
34 because such individuals often have less ability to protect
35 themselves and such individuals can be targeted using information
36 available through public sources, including publicly available
37 information that identifies such individuals or their in-home
38 caregivers.

1 **Sec. 5.** RCW 9.35.020 and 2008 c 207 s 4 are each amended to read
2 as follows:

3 (1) No person may knowingly obtain, possess, use, or transfer a
4 means of identification or financial information of another person,
5 living or dead, with the intent to commit, or to aid or abet, any
6 crime.

7 (2) Violation of this section when the accused or an accomplice
8 violates subsection (1) of this section and obtains credit, money,
9 goods, services, or anything else of value in excess of one thousand
10 five hundred dollars in value, or when the accused knowingly targets
11 a senior or vulnerable individual in carrying out a violation of
12 subsection (1) of this section, shall constitute identity theft in
13 the first degree. Identity theft in the first degree is a class B
14 felony punishable according to chapter 9A.20 RCW.

15 (3) A person is guilty of identity theft in the second degree
16 when he or she violates subsection (1) of this section under
17 circumstances not amounting to identity theft in the first degree.
18 Identity theft in the second degree is a class C felony punishable
19 according to chapter 9A.20 RCW.

20 (4) Each crime prosecuted under this section shall be punished
21 separately under chapter 9.94A RCW, unless it is the same criminal
22 conduct as any other crime, under RCW 9.94A.589.

23 (5) Whenever any series of transactions involving a single
24 person's means of identification or financial information which
25 constitute identity theft would, when considered separately,
26 constitute identity theft in the second degree because of value, and
27 the series of transactions are a part of a common scheme or plan,
28 then the transactions may be aggregated in one count and the sum of
29 the value of all of the transactions shall be the value considered in
30 determining the degree of identity theft involved.

31 (6) Every person who, in the commission of identity theft, shall
32 commit any other crime may be punished therefor as well as for the
33 identity theft, and may be prosecuted for each crime separately.

34 (7) A person who violates this section is liable for civil
35 damages of one thousand dollars or actual damages, whichever is
36 greater, including costs to repair the victim's credit record, and
37 reasonable attorneys' fees as determined by the court.

38 (8) In a proceeding under this section, the crime will be
39 considered to have been committed in any locality where the person
40 whose means of identification or financial information was

1 appropriated resides, or in which any part of the offense took place,
2 regardless of whether the defendant was ever actually in that
3 locality.

4 (9) The provisions of this section do not apply to any person who
5 obtains another person's driver's license or other form of
6 identification for the sole purpose of misrepresenting his or her
7 age.

8 (10) In a proceeding under this section in which a person's means
9 of identification or financial information was used without that
10 person's authorization, and when there has been a conviction, the
11 sentencing court may issue such orders as are necessary to correct a
12 public record that contains false information resulting from a
13 violation of this section.

14 **PART II**
15 **INCREASING PENALTIES FOR CONSUMER FRAUD AGAINST SENIORS**
16 **AND VULNERABLE INDIVIDUALS**

17 NEW SECTION. **Sec. 6.** A new section is added to read as follows:

18 (1) It is the intent of this section to increase civil penalties
19 for consumer fraud targeting a senior or a vulnerable individual.

20 (2) Any consumer fraud that targets a senior or a vulnerable
21 individual, as defined in RCW 9.35.005, is subject to civil penalties
22 of three times the amount of actual damages.

23 (3) This section creates no new cause of action. This section
24 increases penalties where a plaintiff proceeds under any existing
25 cause of action under statute or common law and successfully proves
26 that he or she was victim to consumer fraud that targeted him or her
27 as a senior or vulnerable individual.

28 **PART III**
29 **PROHIBITING THE RELEASE OF CERTAIN PUBLIC RECORDS**
30 **THAT COULD BE USED TO VICTIMIZE SENIORS AND**
31 **VULNERABLE INDIVIDUALS**

32 NEW SECTION. **Sec. 7.** It is the intent of part three of this act
33 to protect seniors and vulnerable individuals from identity theft and
34 other financial crimes by preventing the release of public records
35 that could be used to victimize them. Sensitive personal information
36 about in-home caregivers for vulnerable populations is protected

1 because its release could facilitate identity crimes against seniors,
2 vulnerable individuals, and other vulnerable populations that these
3 caregivers serve.

4 NEW SECTION. **Sec. 8.** A new section is added to chapter 42.56
5 RCW to read as follows:

6 (1) Sensitive personal information of vulnerable individuals and
7 sensitive personal information of in-home caregivers for vulnerable
8 populations is exempt from inspection and copying under this chapter.

9 (2) The following definitions apply to this section:

10 (a) "In-home caregivers for vulnerable populations" means: (i)
11 individual providers as defined in RCW 74.39A.240, (ii) home care
12 aides as defined in RCW 18.88B.010, and (iii) family child care
13 providers as defined in RCW 41.56.030.

14 (b) "Sensitive personal information" means names, addresses, GPS
15 coordinates, telephone numbers, email addresses, social security
16 numbers, driver's license numbers, or other personally identifying
17 information.

18 (c) "Vulnerable individual" has the meaning set forth in RCW
19 9.35.005.

20 NEW SECTION. **Sec. 9.** Within one hundred eighty days after the
21 effective date of this section, the department of social and health
22 services shall report to the governor and attorney general about any
23 additional records that should be made exempt from public disclosure
24 to provide greater protection to seniors and vulnerable individuals
25 against fraud, identity theft, and other forms of victimization.

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.17
27 RCW to read as follows:

28 (1) To protect vulnerable individuals and their children from
29 identity crimes and other forms of victimization, neither the state
30 nor any of its agencies shall release sensitive personal information
31 of vulnerable individuals or sensitive personal information of in-
32 home caregivers for vulnerable populations, as those terms are
33 defined in section 8 of this act.

34 NEW SECTION. **Sec. 11.** Nothing in this act shall prevent the
35 release of public information in the following circumstances:

1 (a) the information is released to a governmental body, including
2 the state's area agencies on aging, and the recipient agrees to
3 protect the confidentiality of the information;

4 (b) the information concerns individuals who have been accused of
5 or disciplined for abuse, neglect, exploitation, abandonment, or
6 other acts involving the victimization of individuals or other
7 professional misconduct;

8 (c) the information is being released as part of a judicial or
9 quasi-judicial proceeding and subject to a court's order protecting
10 the confidentiality of the information and allowing it to be used
11 solely in that proceeding;

12 (d) the information is being provided to a representative
13 certified or recognized under RCW 41.56.080, or as necessary for the
14 provision of fringe benefits to public employees, and the recipient
15 agrees to protect the confidentiality of the information;

16 (e) the disclosure is required by federal law;

17 (f) the disclosure is required by a contract between the state
18 and a third party, and the recipient agrees to protect the
19 confidentiality of the information;

20 (g) the information is released to a person or entity under
21 contract with the state to manage, administer, or provide services to
22 vulnerable residents, or under contract with the state to engage in
23 research or analysis about state services for vulnerable residents,
24 and the recipient agrees to protect the confidentiality of the
25 information; or

26 (h) information about specific public employee(s) is released to
27 a bona fide news organization that requests such information to
28 conduct an investigation into, or report upon, the actions of such
29 specific public employee(s).

30 (2) Nothing in this act shall prevent an agency from providing
31 contact information for the purposes of RCW 74.39A.056(3) and RCW
32 74.39A.250. Nothing in this act shall prevent an agency from
33 confirming the licensing or certification status of a caregiver on an
34 individual basis to allow consumers to ensure the licensing or
35 certification status of an individual caregiver.

36 NEW SECTION. **Sec. 12.** This act shall be liberally construed to
37 promote the public policy of protecting seniors and vulnerable
38 individuals from identity theft, consumer fraud, and other forms of
39 victimization.

1 NEW SECTION. **Sec. 13.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.