

1 d. Any waiver of the provisions of this act is contrary to public  
2 policy, and is void and unenforceable.

3 e. Any individual injured by a violation of this section may institute  
4 a civil action to recover damages. Any business that violates,  
5 proposes to violate, or has violated this section may be enjoined. The  
6 rights and remedies available under this section are cumulative to each  
7 other and to any other rights and remedies available under law.

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9 12. (New section) As used in section 12 through 15 of this  
10 amendatory and supplementary act:

11 "Business" means sole proprietorship, partnership, corporation,  
12 association, or other group, however organized and whether or not  
13 organized to operate at a profit. The term includes a financial  
14 institution organized, chartered, or holding a license or authorization  
15 certificate under the laws of this State, any other state, the United  
16 States, or any other country, or the parent or the subsidiary of any  
17 such financial institution. The term also includes an entity that  
18 destroys records.

19 "Dispose" means the discarding or abandonment of records  
20 containing personal information, and the sale, donation, discarding or  
21 transfer of any medium, including computer equipment, or computer  
22 media, containing records of personal information, or other non-paper  
23 media upon which records of personal information is stored, or other  
24 equipment for non-paper storage of information.

25 "Personal information" means any information that identifies, relates  
26 to, describes, or is capable of being associated with a particular  
27 individual, including, but not limited to, a name, signature, Social  
28 Security number, fingerprint, photograph or computerized image,  
29 physical characteristics or description, address, telephone number,  
30 passport number, driver's license or State identification card number,  
31 date of birth, medical information, bank account number, credit card  
32 number, debit card number or any other financial information.

33 "Records" means any material on which written, drawn, spoken,  
34 visual or electromagnetic information is recorded or preserved,  
35 regardless of physical form or characteristics. Records do not include  
36 publicly available directories containing information an individual has  
37 voluntarily consented to have publicly disseminated or listed, such as  
38 name, address or telephone number.

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40 13. (New section) Any business that conducts business in New Jersey and  
41 any business that maintains or otherwise possesses personal information of  
42 residents of New Jersey shall take all reasonable measures to protect against  
43 unauthorized access to or use of that information in connection with, or after  
44 its disposal. The reasonable measures shall include, but may not be limited to:  
45 a. Implementing and monitoring compliance with policies and procedures  
46 that require the burning, pulverizing or shredding of papers containing

1 personal information so that the information cannot practicably be read or  
2 reconstructed;

3 b. Implementing and monitoring compliance with policies and procedures  
4 that require the destruction or erasure of electronic media and other non-  
5 paper media containing personal information so that the information cannot  
6 practicably be read or reconstructed;

7 c. After due diligence, entering into and monitoring compliance with a  
8 written contract with another party engaged in the business of record  
9 destruction to dispose of personal information in a manner consistent with this  
10 amendatory and supplementary act. Due diligence should ordinarily include,  
11 but may not be limited to, one or more of the following: reviewing an  
12 independent audit of the disposal company's operations and its compliance  
13 with this amendatory and supplementary act; obtaining information about the  
14 disposal company from several references or other reliable sources and  
15 requiring that the disposal company be certified by a recognized trade  
16 association or similar third party with a reputation for high standards of  
17 quality review; reviewing and evaluating the disposal company's information  
18 security policies or procedures, or taking other appropriate measures to  
19 determine the competency and integrity of the disposal company; and

20 d. For disposal companies explicitly hired to dispose of records containing  
21 personal information: implementing and monitoring compliance with policies  
22 and procedures that protect against unauthorized access to or use of personal  
23 information during or after the collection and transportation and disposing of  
24 such information in accordance with subsections a. and b. of this section.

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26 14. (New section) Procedures relating to the adequate destruction or  
27 proper disposal of personal records must be comprehensively described and  
28 classified as official policy in the writings of the business entity, including  
29 corporate and employee handbooks and similar corporate documents.

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31 15. (New section) a. Any person or business that violates the provisions  
32 of sections 12, 13 or 14 of this amendatory and supplementary act shall be  
33 liable for a civil penalty not to exceed \$3,000 for each violation.

34 b. Any individual aggrieved by a violation of sections 12, 13 or 14 of this  
35 amendatory and supplementary act may bring a civil action in this State to  
36 enjoin further violations and to recover actual damages, costs and reasonable  
37 attorney's fees.

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39 16. (New section) a. Except as provided in subsection b. of this section,  
40 no person, including any public or private entity, shall:

41 (1) Intentionally communicate or otherwise make available to the public an  
42 individual's Social Security number.

43 (2) Print an individual's Social Security number on any card required for  
44 the individual to access products or services provided by the person.

45 (3) Require an individual to transmit his Social Security number over the  
46 Internet, unless the connection is secure or the Social Security number is

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1 encrypted.

2 (4) Require an individual to use his Social Security number to access an  
3 Internet website, unless a password or unique personal identification number  
4 or other authentication device is also required to access the Internet website.

5 (5) Print an individual's Social Security number on any materials that are  
6 mailed to the individual, unless State or federal law requires the Social  
7 Security number to be on the document to be mailed.

8 (6) Sell, lease, loan, trade, rent, or otherwise disclose an individual's Social  
9 Security number to a third party for any purpose without written consent to  
10 the disclosure from the individual.

11 (7) Refuse to do business with an individual because the individual will not  
12 consent to the receipt by that person of the Social Security number of that  
13 individual, unless that person is expressly required under State or federal law,  
14 in connection with doing business with an individual, to submit to the State  
15 or federal government, as applicable, that individual's Social Security number.

16 b. Nothing in this section shall prevent a State or local unit of government  
17 from using a Social Security number for internal verification and  
18 administrative purposes, so long as the use does not result in, or require the  
19 release of, the Social Security number to persons not designated by the public  
20 agency to perform associated functions authorized by law.

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22 17. (New section) a. Any person who negligently violates section 16 of  
23 this amendatory and supplementary act shall be liable for a civil penalty not  
24 to exceed \$3,000 for each violation.

25 b. Any person who knowingly violates section 16 of this amendatory and  
26 supplementary act shall be guilty of a crime of the fourth degree and,  
27 notwithstanding the provisions of N.J.S.2C:43-3 and N.J.S.2C:43-6,  
28 punishable by imprisonment of not more than 15 days or a fine of not more  
29 than \$5,000, or both.

30 c. A person aggrieved by a violation of section 16 of this amendatory and  
31 supplementary act may bring a civil action against the violator for recovery of  
32 actual damages or \$5,000, whichever is greater, plus reasonable attorney's  
33 fees and court costs.

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35 18. This act shall take effect on the 180th day after enactment, except that  
36 section 2 of this act shall take effect immediately.

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39 STATEMENT

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41 This bill allows victims of identity theft to obtain an official incident  
42 record from their local law enforcement agency if the victim has  
43 learned or reasonably suspects that he has been a victim of identity  
44 theft. The victim may contact their local law enforcement agency to  
45 make a complaint and provide the victim with a police report.

46 In addition, this bill establishes a procedure whereby a victim of