HOUSE . . . . No. 1511

The Commonwealth of Massachusetts

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PRESENTED BY:

David P. Linsky

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To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to the crime of identity fraud.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:
David P. Linsky	5th Middlesex
Matthew C. Patrick	3rd Barnstable
Bruce E. Tarr	First Essex and Middlesex
John W. Scibak	2nd Hampshire
Richard J. Ross	9th Norfolk
Scott P. Brown	Norfolk, Bristol and Middlesex
Barbara A. L'Italien	18th Essex
Denise Provost	27th Middlesex
Thomas P. Kennedy	Second Plymouth and Bristol
Michael F. Rush	10th Suffolk
Alice K. Wolf	25th Middlesex
Karen E. Spilka	Second Middlesex and Norfolk
Susan C. Fargo	Third Middlesex
Gale D. Candaras	First Hampden and Hampshire

The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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AN ACT RELATIVE TO THE CRIME OF IDENTITY FRAUD.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 37E of Chapter 266 of the General Laws is hereby amended in
2 subsection (a) within the definition of "Personal identifying information" by: (i) striking the
3 word "individual" and inserting in place thereof, the word "person" and (ii) inserting after the
4 words "password identification", as appearing at the end of the subparagraph, the following
5 words: "or tax identification number, or other bank or financial institution issued financial
6 account number or distinctive password identification code".

7 SECTION 2. Section 37E of Chapter 266 of the General Laws, as appearing in the 2002
8 Official Edition, is hereby amended in subsection (a), by inserting after the definition of

9 "Personal identifying information" the following definition: "Person' includes an
10 individual whether living or deceased, association, organization, corporation or other business
11 entity.".

12 SECTION 3. Section 37E of Chapter 266 of the General Laws, as appearing in the 2002
13 Official Edition, is hereby amended as follows by inserting after subsection (c), the following
14 subsections:—

15 (d) Whoever attempts to solicit, obtain or obtains from another person the
16 personal identifying information of such person, by false pretense or by willfully making a
17 materially false, fictitious or deceptive statement or communication, whether by oral, written,
18 electronic mail, internet site or any other means, with the intent to:

19 (i) pose as such person in order to defraud any person, by fraudulently obtaining
20 money, credit, goods, services or anything of value, or

21 (ii)   use the personal identifying information of such person to obtain, forge, or cause to
22 be made, any unlawful, fraudulent or false: bank or financial institution issued credit card, charge
23 card, bank card or financial instrument or any government or quasi-government issued
24 identification card, license, passport, birth certificate or permit document.

25   shall be guilty of the crime of identity fraud and shall be punished as follows:

26   (1) for a violation involving subsection (d)(i): if the offense is a first offense and
27 the value of the item obtained or attempted to be obtained is no more than two hundred and fifty
28 dollars, by a fine of not more than $1,000, or by imprisonment in the house of correction for not
29 more than 2 ½ years, or by both such fine and imprisonment; or if the offense is a second or
30 subsequent offense or the value of the item obtained or attempted to be obtained is more than
31 two hundred and fifty dollars, by a fine of not more than $5,000, or by imprisonment in the state
32 prison for not more than 5 years, or in the house of correction for not more than 2 ½ years, or by
33 both such fine and imprisonment; and

34   (2) for a violation involving subsection (d)(ii) by a fine of not more than $5,000,
35 or by imprisonment in the state prison for not more than 5 years, or in the house of correction for
36 not more than 2 ½ years, or by both such fine and imprisonment.

37   A person who knowingly aids or abets another person to commit or attempt to
38 commit the offense of identity fraud prohibited by this subsection shall be guilty of, and shall be
39 subject to the punishment for, identity fraud provided under this subsection.

40   (e) A prosecution under this section may be commence and disposed of, in either
41 the Superior Court or District Court. A prosecution in the Superior Court may be commenced in
42 the county in which the conduct in violation of this section occurred in the commonwealth, or in
43 the county where the victim or defendant resides, or has a principal place of business within the
44 commonwealth. A prosecution commenced in the District Court may be commenced in the
45 judicial district in which the conduct in violation of this section occurred within the
46 commonwealth, or in the judicial district where the victim or defendant resides or has a principal
47 place of business within the commonwealth.

48   SECTION 4. Section 37E of Chapter 266 of the General Laws, as appearing in the 2002
49 Official Edition, is hereby amended by striking the current subsection heading "(d)" and
50 inserting a new subsection heading "(f)".

51   SECTION 5. Section 37E of Chapter 266 of the General Laws, as appearing in the 2002
52 Official Edition, is hereby amended by striking the current subsection heading "(e)" and inserting
53 a new subsection heading "(g)".

54   SECTION 6. Section 37E of Chapter 266 of the General Laws, as appearing in the 2002
55 Official Edition, is hereby amended by inserting after current subsection (e), which heading is to
56 be amended to subsection "(g)" by Section 5, the following subsection:—

57   (h) A law enforcement officer when acting within the scope of the officer's lawful
58 authority shall not be subject to the prohibitions of subsections (b), (c) or (d).