



CALIFORNIA'S CRIMINAL IDENTITY THEFT REGISTRY

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HOW DOES "CRIMINAL" IDENTITY THEFT HAPPEN?

- A thief is arrested for a crime and uses your name for police records.
- The thief is convicted in your name of a crime.
- Your name is somehow mistakenly associated with someone else's criminal conviction.

ISSUE

Explain "criminal" identity theft and summarize the main components of California's Identity Theft Registry. Does Connecticut have such a registry?

SUMMARY

"Criminal" identity theft refers to a specific type of identity theft where someone cited or arrested for a crime uses another person's name and identifying information, thus creating a criminal record in that person's name.

In California, a victimized person may be able to correct the identity problem by presenting information to the law enforcement agency that issued the arrest warrant. If the arresting agency and prosecutor do not act on that information, the person may petition the court for a Certificate of Identity Theft (i.e., an order declaring the person's innocence).

Once the person has such a certificate, he or she may be placed on the Identity Theft Registry ([Cal. Penal Code § 530.7](#)). The registry provides a centralized place where police and other authorized personnel can quickly confirm that the criminal history does not belong to that person. Once on the registry, a person can present his or her status if questioned and can also request notification be sent to prospective employers or others. (For more details on the registry, see California's Department of Justice [website](#).)

Connecticut does not currently have a criminal identity theft registry and we were unable to find any legislation proposed.

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Arrested Due to Criminal Identity Theft

If a person is erroneously arrested due to criminal identity theft, he or she can file a petition with the arresting agency (e.g., police). This allows the arresting agency to voluntarily seal and destroy the erroneous records (thus no longer needing to place the person on the registry). This petition must also be given to the district attorney with jurisdiction over the crime.

The arresting agency and the prosecutor then have 60 days to decide if the person is factually innocent and seal and destroy the records. If they do not act within 60 days, or if they deny the petition, the person can go to court to ask for a Certificate of Identity Theft.

Certificate of Identity Theft

If the identity theft victim's petition was denied or if the identity thief was arrested, the person can seek a Certificate of Identity Theft from the court. Depending on the circumstance, this could involve filing certain paperwork with facts supporting the person's innocence due to criminal identity theft. If the identity thief was arrested, it may be possible for a judge to grant a certificate without any formal written documents.

A person can also provide declarations by witnesses (e.g., a statement from a witness who was with the person when the crime occurred). These statements of facts are subject to penalties of perjury.

Once the court determines that there is no reasonable cause to believe that the person is guilty of the crime that was committed in his or her name, it will issue the Certificate of Identity Theft stating the person is "factually innocent" of the crime. Then the person can be put onto the registry.

Registry Procedure

The person must then get his or her fingerprints scanned at either a sheriff's office or police station or have them taken manually and then mailed in (along with other required registration documents). Although there is no fee to be put on the registry, there are fees associated with the fingerprint scans.

Then the person must complete the "Identity Theft: Application as Victim" form and submit it along with the Certificate of Identity Theft and fingerprints.

After the state Department of Justice verifies this information with the Department of Motor Vehicles, the person is a part of the registry.

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