

Western Australia

# **Criminal Code (Identity Theft) Amendment Bill 2009**

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Western Australia

LEGISLATIVE ASSEMBLY

*(Introduced by Mr Quigley, MLA)*

**Criminal Code (Identity Theft) Amendment Bill  
2009**

**A Bill for**

**An Act to amend the *Criminal Code*.**

The Parliament of Western Australia enacts as follows:

**s. 1**

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1   **1.       Short title**

2           This Act is the *Criminal Code (Identity Theft) Amendment Act*  
3           2009.

4   **2.       Commencement**

5           This Act comes into operation as follows —

- 6           (a)   sections 1 and 2 - on the day on which this Act receives  
7                the Royal Assent;  
8           (b)   the rest of the Act - on the day after that day.

9   **3.       Act amended**

10          This Act amends the *Criminal Code*.

11   **4.       Chapter XLIVB inserted**

12          Insert after Chapter XLIVA:  
13

14                   **Chapter XLIVB — Obtaining or dealing with**  
15                   **identification information**

16    **440B.   Obtaining or dealing with identification information**

- 17           (1)   A person who obtains or deals with another entity's  
18                identification information for the purpose of  
19                committing, or facilitating the commission of, an  
20                indictable offence commits a misdemeanour.

21                Maximum penalty — 3 years imprisonment.

- 22           (2)   A person who possesses equipment that is capable of  
23                being used to make identification documentation, with  
24                the intention that the person or another person will use  
25                the equipment to commit an offence against this  
26                section commits a misdemeanour.

27                Maximum Penalty – 3 years imprisonment.

- 1           (3) This section applies to a person who intends to commit,  
2           or facilitate the commissioning of, an offence even if  
3           the committing of the offence concerned is impossible  
4           or the offence concerned is to be committed at a later  
5           time, and in the case of subsection (1), whether or not  
6           the person to whom the identification information  
7           concerns relates consented to the dealing in, or  
8           possession of, the identification information.
- 9           (4) Subsection (1) does not apply to dealing in, or the  
10          possession of, a person's own identification  
11          information.
- 12          (5) For subsection (1), it is immaterial whether the other  
13          entity is alive or dead, or exists or does not exist, or  
14          consents or does not consent to the obtaining or  
15          dealing.
- 16          (6) When a court is sentencing a person for an offence  
17          against subsection (1), the court may order that the  
18          court's certificate be issued to the other entity stating  
19          the offence, the entity's name and anything else the  
20          court considers relevant for the entity's benefit.
- 21          (7) The order may be made on the court's own initiative or  
22          on application by the entity or the prosecutor.
- 23          (8) If the person is sentenced on a plea of guilty, the  
24          certificate may be given to the entity immediately.
- 25          (9) If subsection (8) does not apply, the certificate must  
26          not be given to the entity until the later of the  
27          following —
- 28               (a) the end of any period allowed for appeal  
29               against conviction;
- 30               (b) if an appeal is started — the end of any  
31               proceedings on the appeal.

s. 4

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- 1           (10) In this section —
- 2                 *dealing*, with identification information, includes
- 3                 supplying or using the information.
- 4                 *digital signature* means encrypted electronic or
- 5                 computer data intended for the exclusive use of a
- 6                 particular person as a means of identifying himself or
- 7                 herself as the sender of an electronic communication.
- 8                 *identification information*, of another entity, means
- 9                 information about, or identifying particulars of, the
- 10                entity that is capable of being used, whether alone or in
- 11                conjunction with other information, to identify or
- 12                purportedly identify the entity.
- 13                *Examples for an entity that is an individual —*
- 14                • information about the individual or the individual’s
- 15                relatives including name, address, date of birth,
- 16                marital status and similar information.
- 17                • the individual’s driver licence or driver licence
- 18                number.
- 19                • the individual’s passport or passport number.
- 20                • anything commonly used by an individual to identify
- 21                himself or herself, including a digital signature.
- 22                • the individual’s financial account numbers, user
- 23                names and passwords.
- 24                • a series of numbers or letters (or a combination of
- 25                both) intended for use as a means of personal
- 26                identification.
- 27                • any data stored or encrypted on the individual’s
- 28                credit or debit card.
- 29                • biometric data relating to the individual.
- 30                • the individual’s voice print.

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- a false driver licence or other false form of identification for a fictitious individual.

*Examples for an entity that is a body corporate —*

- the body corporate's name.
- the body corporate's ABN.
- the body corporate's financial account numbers.
- any data stored or encrypted on a credit or debit card issued to the body corporate.

***obtaining***, identification information, includes possessing or making the information.

