

# Stateline

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Incidences of identity theft are growing rapidly. As a result, lawmakers are being asked to find ways to curtail the misuse of personal information and “identifying documents” such as birth certificates and driver’s licenses. Improving identity security, enhancing the prosecution of identity theft crimes and better securing the personal information of individuals are some of the ways that states have responded to the problem.



## Seeking protections States respond to rising concerns about identity theft and privacy

by *Tim Anderson*

Richard Varn calls the concept behind the Identity Security Clearinghouse he has been working on for two years “remarkably simple.” In the same sentence, though, he speaks hopefully about the potential for it to yield some “very complex (and useful) results.”

“It improves something that is so fundamental to our needs,” says Varn, the state of Iowa’s chief information officer. “If this gets fully and properly implemented, we’re going to go from no identity security to at least having some.”

The clearinghouse is an attempt to link, through electronic means, the documents used by Iowa for identification purposes. For instance, the state’s Public Health Department has digitized all of its birth records, and work has now begun with the Department of Transportation to tie those records in with the issuance of driver’s licenses. Such a database will create a “one-to-one relationship” between those two vital life documents, Varn says. Other examples of life documents include marriage licenses and death certificates.

“Right now, you can have multiple wrong people using a life document without a trigger that announces the possibility of fraud,” Varn adds. Creating the one-to-one relationship (one birth record for one driver’s license, as an

example) can help alert both the state and individuals of attempts at fraud and identity theft. In congressional testimony detailing the Iowa pilot project, Varn gave the example of “grave robbers” who are able to take advantage of the current identity system, using the birth records of deceased individuals to rob estates and their legal heirs.

The attention paid to efforts aimed at improving state and national identity systems has increased since the Sept. 11 terrorist attacks. After reports indicated that some hijackers had obtained and used false ID cards to carry out their plans, identity security immediately became an issue of national significance.

Work on the Iowa clearinghouse, though, began long before last fall. The focus was not on terrorism prevention; instead, like some other recent state efforts, the Iowa project is an attempt to combat increasing incidences of identity theft.

## Identity theft complaints increase

According to the Identity Theft Resource Center, an estimated 700,000 consumers were victims of the crime in 2001. The fastest growing complaint received by the Federal Trade Commission, identity theft accounted for 42 percent of all consumer fraud complaints made last year. Illinois and Michigan are among the 10 U.S. states with the highest rates of identity theft suspects.

The crime is committed after a perpetrator obtains important identifying information from a victim such as a Social Security or credit card number or a driver’s license. Data are acquired through a variety of means, from using the latest computer technology to rummaging through the garbage to find discarded bank statements or credit card applications.

The FTC reports that in 2001, the average out-of-pocket expense for an identity theft victim was \$1,173. Victim advocates say perhaps the greatest cost is the time individuals must spend getting their identities back, clearing their credit records or even fighting criminal charges. Significant expenses are incurred by the private sector as well. A General Accounting Office report estimates that identity theft cost major payment card associations more than \$114

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# Bills aim to combat identity theft, protect personal privacy

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million in 2000, an increase of approximately 43 percent compared to 1996 numbers.

The prevalence of identity theft and the lack of identity security also have the effect of weakening consumer confidence in online commerce and various e-government services.

## State responses

States' efforts to combat identity theft and fraud have varied. Some, like Iowa's Identity Security Clearinghouse, are an attempt to improve the identity system, which Varn says is essential to protecting an important individual right. "Privacy is the casualty when we fail to protect identity," he argues.

In Colorado, the Legislature approved a bill last year that will allow the Department of Motor Vehicles to begin using facial recognition technology in the issuance of driver's licenses. Officials believe use of the software will stop people from obtaining IDs for fraudulent purposes.

Indeed, implementation of a biometric system (the identification of individuals using biological traits) is seen by some as a vital component in improving the current identity system.

A bill introduced this year by Kansas Republican Sen. Barbara Allen of Overland Park would have required a driver's license applicant to submit his or her Social Security number and a biometric identifier (the measure did not pass).

"They [driver's licenses] are the most widely used and accepted domestic document to verify a person's identity, but they are not reliable, and they won't be reliable until we strengthen the identity verification process," Allen, herself a victim of identity theft, recently said during testimony before a U.S. Senate subcommittee.

But attempts to improve the identity system are often met with resistance by those concerned about the loss of privacy and possible Orwellian government practices. Perhaps as a result, legislative action has often focused on other ways to control identity theft, such as consumer education, better prosecution of the crime and limiting access to personal information.

Some states have just begun to make identity theft a specific crime in their statutes. This year in Nebraska, the Unicameral Legislature over-

whelmingly supported a measure introduced by Sen. Pam Redfield of Omaha. It makes identity theft either a felony or misdemeanor, depending on the amount of money stolen.

The legislation also would require merchants, by the year 2007, to print only the last five digits of a credit card account number on receipts provided to the cardholder. Similar measures have been introduced in other states. Nearly half of the identity cases in 2001 involved credit card fraud.

Lawmakers also have enacted laws to stop government from disseminating the identifying information of citizens. This year in Indiana, the Legislature enacted a measure that prohibits state agencies from releasing an individual's Social Security number to the public.

"The legislation will help to close a loophole that criminals have used to take advantage of

innocent victims," believes Indiana Rep. Peggy Welch, a Democrat from Bloomington, who sponsored the measure in the House.

## Consumer protections

Public anxiety over identity theft has become an important component in the debate over various consumer privacy measures. This month, North Dakotans voted on a measure that would repeal a banking law passed by the Legislature in 2001. The original legislation created an "opt-out" provision, meaning customers must notify financial institutions if they do not want their names and information shared.

Opponents of the law want North Dakota to be an "opt-in" state, requiring financial institutions to get approval from customers before sharing information. "The more freely information is made available, the greater the chance for identity theft," argues Rep. Jim Kasper, a Republican from Fargo. He and Rep. Dan Ruby, a Republican from Minot, have been two of the North Dakota lawmakers leading efforts to repeal the 2001 law.

"I think it's an overall right for people to expect

their financial privacy to be secure and that if it is put in the hands of anyone, for marketing or any other purpose, the information should be requested first, not assumed that it is OK," Ruby says.

The law, though, has many proponents in the Legislature as well. They say the measure should be looked at as a key to economic development in the state. Other states, along with federal law, provide an "opt-out" provision. Creating a different standard in North Dakota could compromise the state's economic competitiveness and cause difficulties for existing businesses, they argue.

"We don't want to build a wall around North Dakota," Rep. Bob Martinson, a Republican from Bismarck, told *The (Fargo) Forum* newspaper.

Resolving the opt-in vs. opt-out debate was essential to passage of a unique piece of legislation passed by the Minnesota Legislature in 2002. The measure regulates the use of consumer information by Internet service providers (ISPs).

"ISPs can obtain information that allows them to create a very comprehensive profile of an individual; that is very valuable information," says Sen. Steve Kelley, a Democrat from Hopkins, who along with Republican Rep. Tim Pawlenty led efforts to pass the measure. "This is the latest in the evolution of privacy laws. We've already seen it with phones, video rentals and cable, and people using the Internet deserve protections as well."

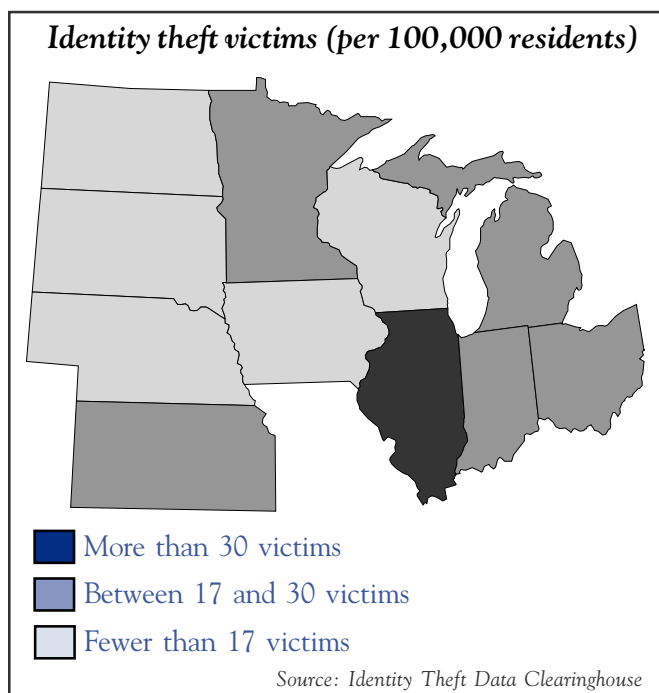
Both lawmakers' bills would have allowed customers to block ISPs from sharing their personal information. What had to be worked out were differences over how the service providers would get permission to share the data (opt-in or opt-out). In the compromise agreement, which has been signed by Independent Gov. Jesse Ventura, contracts between the ISP and customers will have to state whether the

company has an opt-in or opt-out policy.

Kelley says identity theft was not the primary concern fueling attempts to regulate service providers' use of customers' data. Instead, the goal of the legislation was to ensure that individuals have more control over what can be both valuable — and potentially embarrassing — information.

Passage of the Minnesota law, along with various attempts to

protect people from identity theft, indicate a commitment among states to stop individuals' personal information and documents from getting into the wrong hands. ✨



Type of fraud	Percent of victims
Credit card	42%
Phone/utilities	20%
Bank	13%
Employment-related	9%
Loan	7%
Government documents/benefits	6%
Other	19%

Note: About 20 percent of individuals were victims of more than one type of fraud  
Source: Identity Theft Data Clearinghouse