

N.D. Cent. Code, § 51-31-04

Current through all legislation from the 68th Legislative Assembly - Special Session (2023).

North Dakota Century Code Annotated > TITLE 51 Sales and Exchanges (Chs. 51-01 — 51-37) > CHAPTER 51-31 Identity Fraud (§§ 51-31-01 — 51-31-05)

51-31-04. Police reports — Judicial determination of factual innocence.

1. An individual who has learned or reasonably suspects that the individual's personal identifying information has been unlawfully used by another, as described in section 12.1-23-11, may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over the individual's residence or any other jurisdiction in which any part of the offense occurred. The law enforcement agency shall take a report of the matter, provide the individual with a copy of that report, and begin an investigation of the facts. If the suspected crime was committed in a different jurisdiction, the local law enforcement agency may refer the matter to the law enforcement agency where the suspected crime was committed for further investigation of the facts.
2. An individual who reasonably believes that the individual is the victim of identity theft may petition the district court in the county in which the alleged victim resides or in which the identity theft is alleged to have occurred, or the court, on its own motion or upon application of the state's attorney, may move for an expedited judicial determination of the individual's factual innocence, if the perpetrator of the identity theft was arrested, cited, or convicted of a crime under the victim's identity, if a criminal complaint has been filed against the perpetrator in the victim's name, or if the victim's identity has been mistakenly associated with a record of criminal conviction. Any judicial determination of factual innocence made under this section may be heard and determined upon declarations, affidavits, police reports, or other material, relevant, and reliable information submitted by the parties or ordered to be part of the record by the court. If the court determines that the petition or motion is meritorious and that there is no reasonable cause to believe that the victim committed the offense for which the perpetrator of the identity theft was arrested, cited, convicted, or subject to a criminal complaint in the victim's name, or that the victim's identity has been mistakenly associated with a record of criminal conviction, the court shall find the victim factually innocent of that offense. If the victim is found factually innocent, the court shall issue an order certifying that determination.
3. After a court has issued a determination of factual innocence under this section, the court may order the name and associated personal identifying information contained in court records, files, and indexes accessible by the public deleted, sealed, or labeled to show that the data is impersonated and does not reflect the defendant's identity.
4. A court that has issued a determination of factual innocence under this section may vacate that determination if the petition or any information submitted in support of the petition is found to contain any material misrepresentation or fraud.

History

S.L. 2005, ch. 448, § 1; 2009, ch. 437, § 1.

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