

RÉSUMÉ DIGEST

ACT 28 (SB 38)

2025 Regular Session

Hensgens

Existing law provides for the crime of access device fraud. Provides that no person may either possess or transfer an access device to another person without authorization or with the intent to defraud. Provides that no person may use, possess, or transfer device-making equipment or a counterfeit access device.

New law retains existing law and adds that no person may knowingly possess 15 or more counterfeit or misappropriated access devices with the intent to defraud.

Existing law defines "access device" as a person's social security number, driver's license number, birth date, mother's maiden name, checking account numbers, savings account numbers, personal identification numbers, electronic identification numbers, digital signatures, or other means of account access that can be used to obtain anything of value, whether contemporaneously or not.

New law retains existing law and adds to the definition of "access device" a gift card and account information related to a gift card.

New law defines "gift card" as a card, code, or device that is issued to a consumer on a prepaid basis in a specified amount and is redeemable in exchange for goods or services. The value of the gift is either the maximum face value of the card when it is held for sale by the merchant or the actual value of the funds deposited with the merchant at the time of the activation and purchase.

Prior law provided the following penalties for an offender who commits the crime of access device fraud:

- (1) When the misappropriation or taking amounts to a value of \$25,000 or more, imprisonment at hard labor for not more than 20 years, or a fine of not more than \$50,000 or both.
- (2) When the misappropriation or taking amounts to a value of \$5,000 or more, but less than a value of \$25,000, imprisonment, with or without hard labor, for not more than 10 years, or a fine of not more than \$10,000, or both.
- (3) When the misappropriation or taking amounts to a value of \$1,000 or more, but less than a value of \$5,000, imprisonment, with or without hard labor, for not more than 5 years, or a fine of not more than \$3,000, or both.
- (4) When the misappropriation or taking amounts to a value of less than \$1,000, imprisonment for not more than six months or a fine of not more than \$500, or both.

New law retains prior law.

Prior law provided that the court will order restitution as a part of the imposed sentence and that restitution may include payment for any cost incurred by the victim, including attorney fees, costs associated with clearing the credit history or credit ratings of the victim, or costs incurred in connection with any civil or administrative proceedings to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.

New law retains prior law's restitution requirement but provides that restitution will be paid in accordance with existing law specifying that restitution will be for actual pecuniary loss to the victim and that restitution payments will either be made through the court's designated intermediary or, with the victim's consent, directly to the victim.

Effective Aug. 1, 2025.

(Amends R.S. 14:70.4(D)-(G); adds R.S. 14:70.4(H))