

By: Representatives Clark, Scott

To: Judiciary B

HOUSE BILL NO. 1041

1 AN ACT TO ESTABLISH A PROCEDURE FOR A VICTIM OF IDENTITY
2 THEFT TO HAVE THE DEBT FORGIVEN AND CREDIT REPORTS PURGED; AND FOR
3 RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Any person who is the victim of identity theft
6 (whose personal identity information has been used for obtaining
7 goods, money or anything of value without that person's
8 authorization) may send via certified mail a letter to a creditor
9 that claims to have a debt owing to them as a result of such
10 identity theft informing the creditor of the theft and requesting
11 the creditor to release the victim from any and all obligations of
12 the debt and report such release to all credit reporting bureaus
13 identified in the letter and request removal of the debt from the
14 victim's credit history. Thirty (30) days after receipt of the
15 certified letter, if the creditor fails to forgive the debt and
16 contact the credit bureaus, then the victim may petition the
17 chancery court where the petitioner resides or where the debt was
18 incurred, naming the creditor as defendant and providing service
19 of process to the creditor in accordance with the Mississippi
20 Rules of Civil Procedure. The creditor is not required to file an
21 answer in order for the petitioner's claim to be heard. The
22 victim shall file a sworn petition evidencing:

23 (a) That the petitioner did not incur the debt or give
24 consent for the debt;

25 (b) That the petitioner did not have knowledge of the
26 debt at the time that the debt was incurred;



27 (c) That the petitioner has filed a formal complaint
28 and report with the law enforcement agency where he resides or
29 where the debt was incurred; and

30 (d) That the petitioner did not receive any pecuniary
31 benefit as a result of the debt.

32 Upon satisfactory showing to the court, the court shall issue
33 an order requiring the creditor to release the victim from any and
34 all obligations of the debt and shall authorize the petitioner to
35 report such release to all credit bureaus identified in the letter
36 and request removal of the debt from the victim's credit history.

37 **SECTION 2.** This act shall take effect and be in force from
38 and after July 1, 2009.

