

TITLE 6: CRIMES AND CRIMINAL PROCEDURE
DIVISION 1: CRIMES AGAINST THE PERSON

§ 1726. Mandate.

Law enforcement agencies to accept and provide reports; judicial factual determination.

(a) A person who has learned or reasonably suspects that his or her personal identifying information has been unlawfully used by another may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over his or her actual residence, which shall take a police report of the matter, provide the complainant with a copy of that report, and begin an investigation of the facts or, if the suspected crime was committed in a different jurisdiction, refer the matter to the law enforcement agency where the suspected crime was committed for an investigation of the facts.

(b) A person who reasonably believes that he or she is the victim of identity theft may petition the Superior Court, or the Superior Court, on its own motion or upon application of the prosecuting attorney, may move for an expedited judicial determination of his or her factual innocence, where the perpetrator of the identity theft was arrested for, cited for, or convicted of a crime under the victim's identity, or where a criminal complaint has been filed against the perpetrator in the victim's name, or where the victim's identity has been mistakenly associated with a criminal conviction. Any judicial determination of factual innocence made pursuant to this subsection (b) 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 this determination.

(c) After the court has issued a determination of factual innocence under this section, the court may order the name and associated personal identifying information contained in the court records, files, and indexes accessible by the public sealed, deleted, or labeled to show that the data is impersonated and does not reflect the defendant's identity.

(d) The court may at any time vacate that determination if the petition, or any information submitted in support of the petition, is found to contain any material misrepresentation or fraud.

Source: PL 15-38, § 3 (1726).