

JAN 23 2006

A BILL FOR AN ACT

RELATING TO IDENTITY THEFT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In 2005, the Hawaii anti-phishing task force
2 was established in the department of the attorney general to
3 develop state policy on how best to prevent further occurrences
4 of phishing and other forms of electronic commerce-based crimes
5 in the State. The task force focused on:

6 (1) Examining state agencies charged with the
7 responsibility of developing policies, procedures and
8 operations to prevent, monitor, and enforce electronic
9 commerce-based criminal activities and sanctions;

10 (2) Deriving best practice models from the review of other
11 jurisdictions' activities, policies, and laws related
12 to the prevention of electronic commerce-based crimes;

13 (3) Exploring other options available to the task force to
14 deter electronic commerce-based crimes from occurring
15 in the State; and

16 (4) Establishing findings and recommendations on
17 electronic commerce-based crime prevention.



1 The task force submitted to the legislature findings and
2 recommendations on deterring electronic commerce-based crime.

3 The purpose of this bill is to implement the
4 recommendations of the task force on protection of personal
5 information.

6 SECTION 2. Section 708-800, Hawaii Revised Statutes, is
7 amended by adding a new definition to be appropriately inserted
8 and to read as follows:

9 "Confidential personal information" means information in
10 which an individual has a significant privacy interest,
11 including, but not limited to, a driver's license number, a
12 social security number, a mother's maiden name, an identifying
13 number of a depository account, a bank account number, a
14 password or other information that is used for accessing
15 information, or any other name, number, or code that is used,
16 alone or in conjunction with other information, to confirm the
17 identity of an actual or fictitious person."

18 SECTION 3. Section 706-606.5, Hawaii Revised Statutes, is
19 amended by amending subsection (1) to read as follows:

20 "(1) Notwithstanding section 706-669 and any other law to
21 the contrary, any person convicted of murder in the second
22 degree, any class A felony, any class B felony, or any of the



1 708-854 relating to criminal possession of a forgery device;
2 708-875 relating to trademark counterfeiting; 710-1071 relating
3 to intimidating a witness; 711-1103 relating to riot; 712-1203
4 relating to promoting prostitution in the second degree;
5 712-1221 relating to gambling in the first degree; 712-1224
6 relating to possession of gambling records in the first degree;
7 712-1243 relating to promoting a dangerous drug in the third
8 degree; 712-1247 relating to promoting a detrimental drug in the
9 first degree; 134-7 relating to ownership or possession of
10 firearms or ammunition by persons convicted of certain crimes;
11 134-8 relating to ownership, etc., of prohibited weapons; 134-9
12 relating to permits to carry, or who is convicted of attempting
13 to commit murder in the second degree, any class A felony, any
14 class B felony, or any of the class C felony offenses enumerated
15 above and who has a prior conviction or prior convictions for
16 the following felonies, including an attempt to commit the same:
17 murder, murder in the first or second degree, a class A felony,
18 a class B felony, any of the class C felony offenses enumerated
19 above, or any felony conviction of another jurisdiction shall be
20 sentenced to a mandatory minimum period of imprisonment without
21 possibility of parole during such period as follows:

22 (a) One prior felony conviction:



1 (i) Where the instant conviction is for murder in the
2 second degree or attempted murder in the second
3 degree--ten years;

4 (ii) Where the instant conviction is for a class A
5 felony--six years, eight months;

6 (iii) Where the instant conviction is for a class B
7 felony--three years, four months;

8 (iv) Where the instant conviction is for a class C
9 felony offense enumerated above--one year, eight
10 months;

11 (b) Two prior felony convictions:

12 (i) Where the instant conviction is for murder in the
13 second degree or attempted murder in the second
14 degree--twenty years;

15 (ii) Where the instant conviction is for a class A
16 felony--thirteen years, four months;

17 (iii) Where the instant conviction is for a class B
18 felony--six years, eight months;

19 (iv) Where the instant conviction is for a class C
20 felony offense enumerated above--three years,
21 four months;

22 (c) Three or more prior felony convictions:

- 1 (i) Where the instant conviction is for murder in the
2 second degree or attempted murder in the second
3 degree--thirty years;
- 4 (ii) Where the instant conviction is for a class A
5 felony--twenty years;
- 6 (iii) Where the instant conviction is for a class B
7 felony--ten years;
- 8 (iv) Where the instant conviction is for a class C
9 felony offense enumerated above--five years."

10 SECTION 4. Section 708-800, Hawaii Revised Statutes, is
11 amended by amending the definition of "personal information" to
12 read as follows:

13 ""Personal information" means confidential personal
14 information and the following information associated with an
15 actual [person] or [a] fictitious person: [~~that is~~] a name, an
16 address, a telephone number, an electronic mail address, [a
17 ~~driver's license number, a social security number,~~] an employer,
18 a place of employment, information related to employment, or an
19 employee identification number [~~, a mother's maiden name, an~~
20 ~~identifying number of a depository account, a bank account~~
21 ~~number, a password used for accessing information, or any other~~
22 ~~name, number, or code that is used, alone or in conjunction with~~

1 ~~other information, to confirm the identity of an actual or a~~
2 ~~fictitious person]."~~

3 SECTION 5. Section 708-839.8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[~~§~~708-839.8~~§~~] **Identity theft in the third degree.** (1)

6 A person commits the offense of identity theft in the third
7 degree if that person ~~makes~~:

8 (a) Makes or causes to be made, either directly or
9 indirectly, a transmission of any personal information
10 of another by any oral statement, any written
11 statement, or any statement conveyed by any electronic
12 means, with the intent to commit the offense of theft
13 in the third or fourth degree from any person or
14 entity~~[-]~~; or

15 (b) Intentionally or knowingly possesses, without
16 authorization, any confidential personal information
17 of another in any form, including, but not limited to,
18 mail, physical documents, identification cards, or
19 information stored in digital form.

20 (2) It is an affirmative defense that the person who
21 possessed the confidential information of another did so under
22 the reasonable belief that the person was authorized to possess

1 the other's confidential personal information by the other
2 person.

3 [~~2~~] (3) Identity theft in the third degree is a class C
4 felony."

5 SECTION 6. This Act does not affect rights and duties that
6 matured, penalties that were incurred, and proceedings that were
7 begun, before its effective date.

8 SECTION 7. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 8. This Act shall take effect upon its approval.

11

INTRODUCED BY:

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SB2159

Report Title:

Identity Theft; Enforcement Penalties

Description:

Increases penalties for identity theft. Makes it a crime to intentionally or knowingly possess the confidential personal information of another.

