

# PROPOSED

THE SENATE  
TWENTY-THIRD LEGISLATURE, 2006  
STATE OF HAWAII

S.B. NO. 2159  
S.D. 2

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## 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. Chapter 708, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 "§708- Unauthorized possession of confidential personal  
10 information. (1) A person commits the offense of unauthorized  
11 possession of confidential personal information if that person  
12 intentionally or knowingly possesses, without authorization, any  
13 confidential personal information of another in any form,  
14 including but not limited to mail, physical documents,  
15 identification cards, or information stored in digital form.

16 (2) It is an affirmative defense that the person who  
17 possessed the confidential information of another did so under  
18 the reasonable belief that the person was authorized by law or  
19 by the consent of the other person to possess the other's  
20 confidential personal information by other person.

21 (3) Unauthorized possession of confidential personal  
22 information is a class C felony.

1 SECTION 3. Section 708-800, Hawaii Revised Statutes, is  
 2 amended by adding a new definition to be appropriately inserted  
 3 and to read as follows:

4 "Confidential personal information" means information in  
 5 which an individual has a significant privacy interest,  
 6 including but not limited to a driver's license number, a social  
 7 security number, an identifying number of a depository account,  
 8 a bank account number, a password or other information that is  
 9 used for accessing information, or any other name, number, or  
 10 code that is used, alone or in conjunction with other  
 11 information, to confirm the identity of a person."

12 SECTION 4. Section 706-606.5, Hawaii Revised Statutes, is  
 13 amended by amending subsection (1) to read as follows:

14 "(1) Notwithstanding section 706-669 and any other law to  
 15 the contrary, any person convicted of murder in the second  
 16 degree, any class A felony, any class B felony, or any of the  
 17 following class C felonies: section 188-23 relating to  
 18 possession or use of explosives, electrofishing devices, and  
 19 poisonous substances in state waters; section 707-703 relating  
 20 to negligent homicide in the first degree; 707-711 relating to  
 21 assault in the second degree; 707-713 relating to reckless  
 22 endangering in the first degree; 707-716 relating to terroristic

1 threatening in the first degree; 707-721 relating to unlawful  
2 imprisonment in the first degree; 707-732 relating to sexual  
3 assault or rape in the third degree; 707-735 relating to sodomy  
4 in the third degree; 707-736 relating to sexual abuse in the  
5 first degree; 707-751 relating to promoting child abuse in the  
6 second degree; 707-766 relating to extortion in the second  
7 degree; 708-811 relating to burglary in the second degree;  
8 708-821 relating to criminal property damage in the second  
9 degree; 708-831 relating to theft in the first degree as amended  
10 by Act 68, Session Laws of Hawaii 1981; 708-831 relating to  
11 theft in the second degree; 708-835.5 relating to theft of  
12 livestock; 708-836 relating to unauthorized control of propelled  
13 vehicle; 708-839.8 relating to identity theft in the third  
14 degree; 708- relating to unauthorized possession of  
15 confidential personal information; 708-852 relating to forgery  
16 in the second degree; 708-854 relating to criminal possession of  
17 a forgery device; 708-875 relating to trademark counterfeiting;  
18 710-1071 relating to intimidating a witness; 711-1103 relating  
19 to riot; 712-1203 relating to promoting prostitution in the  
20 second degree; 712-1221 relating to gambling in the first  
21 degree; 712-1224 relating to possession of gambling records in  
22 the first degree; 712-1243 relating to promoting a dangerous



1 drug in the third degree; 712-1247 relating to promoting a  
 2 detrimental drug in the first degree; 134-7 relating to  
 3 ownership or possession of firearms or ammunition by persons  
 4 convicted of certain crimes; 134-8 relating to ownership, etc.,  
 5 of prohibited weapons; 134-9 relating to permits to carry, or  
 6 who is convicted of attempting to commit murder in the second  
 7 degree, any class A felony, any class B felony, or any of the  
 8 class C felony offenses enumerated above and who has a prior  
 9 conviction or prior convictions for the following felonies,  
 10 including an attempt to commit the same: murder, murder in the  
 11 first or second degree, a class A felony, a class B felony, any  
 12 of the class C felony offenses enumerated above, or any felony  
 13 conviction of another jurisdiction shall be sentenced to a  
 14 mandatory minimum period of imprisonment without possibility of  
 15 parole during such period as follows:

- 16 (a) One prior felony conviction:
  - 17 (i) Where the instant conviction is for murder in the
  - 18 second degree or attempted murder in the second
  - 19 degree--ten years;
  - 20 (ii) Where the instant conviction is for a class A
  - 21 felony--six years, eight months;

- 1 (iii) Where the instant conviction is for a class B  
2 felony--three years, four months;
- 3 (iv) Where the instant conviction is for a class C  
4 felony offense enumerated above--one year, eight  
5 months;
- 6 (b) Two prior felony convictions:
- 7 (i) Where the instant conviction is for murder in the  
8 second degree or attempted murder in the second  
9 degree--twenty years;
- 10 (ii) Where the instant conviction is for a class A  
11 felony--thirteen years, four months;
- 12 (iii) Where the instant conviction is for a class B  
13 felony--six years, eight months;
- 14 (iv) Where the instant conviction is for a class C  
15 felony offense enumerated above--three years,  
16 four months;
- 17 (c) Three or more prior felony convictions:
- 18 (i) Where the instant conviction is for murder in the  
19 second degree or attempted murder in the second  
20 degree--thirty years;
- 21 (ii) Where the instant conviction is for a class A  
22 felony--twenty years;

1           (iii) Where the instant conviction is for a class B  
2           felony--ten years;

3           (iv) Where the instant conviction is for a class C  
4           felony offense enumerated above--five years."

5           SECTION 5. 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 6. New statutory material is underscored.

9           SECTION 7. This Act shall take effect upon its approval.

**Report Title:**

Identity Theft; Enforcement Penalties

**PROPOSED**

**Description:**

Increases penalties for identity theft. Makes it a crime to intentionally or knowingly possess the confidential personal information of another. (SD2)

