

Honolulu, Hawaii

MAR 03 2006

RE: S.B. No. 2159
S.D. 2

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Judiciary and Hawaiian Affairs, to which was referred S.B. No. 2159, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO IDENTITY THEFT,"

begs leave to report as follows:

The purpose of this measure is to increase the penalties for identity theft and make it a crime to intentionally or knowingly possess the confidential information of another without that person's authorization.

Your Committee received testimony in support of this measure from the Department of the Attorney General; the Department of Commerce and Consumer Affairs; the Department of the Prosecuting Attorney, City and County of Honolulu; the Department of the Prosecuting Attorney, County of Maui; the Honolulu Police Department; and the Hawaii Bankers Association. The Office of the Public Defender submitted testimony in opposition to this measure.

Hawaii law enforcement has found it difficult to curb the rise in identity theft-related crimes when identity thieves in possession of personal information who have not yet caused a monetary loss to the victim cannot be prosecuted for crimes other than petty misdemeanor thefts. A nominal criminal consequence is inadequate to address and deter possession of another's personal information, and in fact perpetuates the larger problem of identity theft. Your Committee finds that increasing the penalties for identity theft by amending the law to make identity theft an enumerated offense within the repeat offender statute,



and amending the law to make intentionally or knowingly possessing confidential information of another without authorization a class C felony, will help to deter identity theft crimes.

In light of the testimony submitted by the Department of the Attorney General, your Committee amended this measure by not amending the definition of "personal information" under section 708-800, Hawaii Revised Statutes. The definition for "personal information" was amended in S.B. No. 2159, S.D. 1 to include "confidential personal information." Your Committee recognizes that the term "confidential personal information" is only meant to apply to the offense of unauthorized possession of confidential personal information; thus, amending the definition for "personal information" is not necessary.

Your Committee also amended this measure by adding language suggested by the Department of the Attorney General to the affirmative defense subsection (2) of the new section relating to the unauthorized possession of confidential information. The added language will correctly refer to the term "confidential personal information" and strengthen the affirmative defense by protecting individuals who had a reasonable belief that they were authorized by law or by consent of the other person to possess the confidential personal information.

As affirmed by the record of votes of the members of your Committee on Judiciary and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2159, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2159, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Hawaiian Affairs,


COLLEEN HANABUSA, Chair



