



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

S.B. NO. 514, RELATING TO THEFT OF PERSONAL ELECTRONIC DEVICES.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Monday, February 23, 2015 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Albert Cook, Deputy Attorney General

Chair Keith-Agaran and Members of the Committee:

The Department of the Attorney General supports this bill and urges its passage with an amendment.

This bill makes the theft of personal electronic devices a class C felony.

Personal electronic devices store personal and sensitive information and data that far exceed the monetary value of the devices themselves. Theft of these devices also carries the likelihood of identity theft and theft of personal confidential information, because, once someone has possession and access to these devices, the sensitive information contained is likely compromised and ripe for exploitation. Lastly, monetary valuation of these personal electronic devices can be problematic because electronic devices rapidly lose their monetary value as new models are constantly being released. Additionally, many devices are provided either free or at substantial discounts by cell phone providers, thus making a monetary valuation difficult.

This bill eliminates the difficulty of setting a monetary value for personal electronic devices, instead making the theft of any personal electronic device a class C felony.

However, the bill does not define or mention the term "personal electronic device." To have the bill be consistent with its title and avoid constitutional problems, we recommend amending paragraph (f) on page 3, lines, 3-8, the bill as follows:

(f) Of any personal electronic device. For purposes of this paragraph:

"Personal electronic device" means any computer capable of storing or retrieving personal information.

"Computer" has the same meaning as in section 708-890.

“Personal information” has the same meaning as in section 487D-1.
We respectfully request passage of this measure with the above amendment.



**Office of the Public Defender
State of Hawaii
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,
State of Hawaii to the Senate Committee on Judiciary and Labor**

February 23, 2015, 9:00 a.m.

S.B. No. 514: RELATING TO THEFT OF PERSONAL ELECTRONIC DEVICES

Chair Keith-Agaran and Members of the Committee:

This measure will make the theft of personal electronic devices such as computers, tablets, cell phones and other electronic devices capable of storing or retrieving personal information a class C felony.

This measure is unnecessary, because the vast majority of personal electronic devices mentioned in this bill are valued at more than three hundred dollars, the theft of which constitutes theft in the second degree, a class C felony.

We understand this committee's concern about personal information falling into the wrong hands. However, the unauthorized possession of confidential personal information is already prohibited, as a class C felony (§708-839.55, H.R.S.).

The Office of the Public Defender opposes S.B. No. 514. Thank you for the opportunity to be heard on this matter.

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THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawai`i

February 23, 2015

RE: S.B. 514; RELATING TO THEFT OF PERSONAL ELECTRONIC DEVICES.

Chair Keith-Agaran, Vice Chair Shimabukuro and members of the Senate Committee on Judiciary and Labor, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support with suggested amendment of S.B. 514.

The purpose of this bill is to amend the offense of Theft in the Second Degree under section 708-831 of the HRS to include theft of any computer capable of storing or retrieving personal information. Use of the term, "computer," as defined in HRS §708-890, would be sufficient to cover theft of a personal computer, laptop computer, tablet computer, and/or cellular phone with data processing while at the same time accommodating any future devices having similar capabilities, regardless of any new terminology used to describe those devices.

We recommend deleting the following language from p. 4 lines 11-13: “Of any computer capable of storing or retrieving personal information” and from lines 15-16: “‘Personal information’ has the same meaning as in section 487D-1.” This language is unnecessary as the definition of “Computer” already includes high-speed data processing devices with “storage functions,” and specifically exempts typewriters, calculators and other such ‘lesser’ devices. It would be an unnecessary hurdle for deputy prosecutors to have to prove a computer was capable of storing personal information, where the plain definition of “Computer” is appropriate here.

As high-speed data processing devices—such as cell phones, tablets, and laptops—become increasingly important and used into our everyday lives, people are storing and retrieving increasingly more information—and more sensitive information—on these devices. Indeed, the theft of one's cell phone can be devastating to a victim whose personal contacts, passwords, account numbers, or other sensitive information is stored thereon, regardless of the actual market-value of that device at the time of offense. Even a smartphone that is perhaps one or two years old, possibly valued at \$50 now, can store and retrieve just-as vital information as a

brand-new model purchased last month for \$700. Yet these types of devices are considered to be the easiest and most commonly stolen items across the nation. S.B. 514 reflects this reality, and the actual value and importance that these devices have to their owners.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of S.B. 514, with our suggested amendments. Thank you for the opportunity to testify on this matter.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: |
Subject: Submitted testimony for SB514 on Feb 23, 2015 09:00AM
Date: Friday, February 20, 2015 2:11:19 PM

SB514

Submitted on: 2/20/2015

Testimony for JDL on Feb 23, 2015 09:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Cates	Individual	Comments Only	No

Comments: Aloha Honorable Chair Keith-Agaran and members of the Senate Committee of Judiciary and Labor, Thieves often target smaller items such as laptops, smart phones, and electronic tablets because they are easily concealed and are hot on the black market for resale. There is also the additional layer of identity theft. The effects of identity theft upon an individual are often financially devastating and can sometimes take years for a victim to recover. Therefore, theft of a personal electronic device should be a felony under HRS 708-831 regardless of monetary value of the the device. Mahalo!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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