

ASSEMBLY BILL

No. 618

Introduced by Assembly Member Cogdill

February 17, 2005

An act to amend Section 530.5 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 618, as introduced, Cogdill. Identity theft.

This bill would state legislative findings and declarations regarding the seriousness of the crime of acquiring personal identifying information.

Existing law provides that every person who willfully obtains personal identifying information about another person, as defined, and uses that information for any unlawful purpose is guilty of a crime punishable by imprisonment in a county jail not to exceed one year, or a fine not to exceed \$1,000, or both, or by imprisonment in the state prison, or a fine not to exceed \$10,000, or both.

This bill would provide that a 2nd or subsequent violation of these provisions is punishable by imprisonment in the state prison for 2, 3, or 4 years.

Existing law provides that every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information, as defined, of another person, is guilty of a crime punishable by imprisonment in the county jail for a period not to exceed one year, a fine not to exceed \$1,000, or by both that imprisonment and fine.

This bill would provide that a violation of these provisions is grand theft and is punishable by imprisonment in a county jail not to exceed one year or by imprisonment in the state prison.

Because this bill would change the definition of a crime and increase the prosecutorial duties of local officials, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature hereby finds and declares that
2 the acquisition of personal identifying information is as serious a
3 crime as grand theft and should be punished accordingly.

4 SEC. 2. Section 530.5 of the Penal Code is amended to read:

5 530.5. (a) Every person who willfully obtains personal
6 identifying information, as defined in subdivision (b), of another
7 person, and uses that information for any unlawful purpose,
8 including to obtain, or attempt to obtain, credit, goods, services,
9 or medical information in the name of the other person without
10 the consent of that person, is guilty of a public offense, and upon
11 conviction therefor, shall be punished either by imprisonment in
12 a county jail not to exceed one year, a fine not to exceed one
13 thousand dollars (\$1,000), or both that imprisonment and fine, or
14 by imprisonment in the state prison, a fine not to exceed ten
15 thousand dollars (\$10,000), or both that imprisonment and fine,
16 *and upon a second or subsequent conviction is punishable by*
17 *imprisonment in the state prison for two, three, or four years.*

18 (b) "Personal identifying information," as used in this section,
19 means the name, address, telephone number, health insurance
20 identification number, taxpayer identification number, school
21 identification number, state or federal driver's license number, or
22 identification number, social security number, place of
23 employment, employee identification number, mother's maiden
24 name, demand deposit account number, savings account number,
25 checking account number, PIN (personal identification number)
26 or password, alien registration number, government passport

1 number, date of birth, unique biometric data including
2 fingerprint, facial scan identifiers, voice print, retina or iris
3 image, or other unique physical representation, unique electronic
4 data including identification number, address, or routing code,
5 telecommunication identifying information or access device,
6 information contained in a birth or death certificate, or credit card
7 number of an individual person.

8 (c) In any case in which a person willfully obtains personal
9 identifying information of another person, uses that information
10 to commit a crime in addition to a violation of subdivision (a),
11 and is convicted of that crime, the court records shall reflect that
12 the person whose identity was falsely used to commit the crime
13 did not commit the crime.

14 (d) Every person who, with the intent to defraud, acquires,
15 transfers, or retains possession of the personal identifying
16 information, as defined in subdivision (b), of another person is
17 ~~guilty of a public offense, and upon conviction therefor, shall be~~
18 ~~punished~~ *grand theft, punishable* by imprisonment in a county
19 jail not to exceed one year, ~~or a fine not to exceed one thousand~~
20 ~~dollars (\$1,000), or by both that imprisonment and fine or in the~~
21 *state prison.*

22 SEC. 3. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the
27 penalty for a crime or infraction, within the meaning of Section
28 17556 of the Government Code, or changes the definition of a
29 crime within the meaning of Section 6 of Article XIII B of the
30 California Constitution.