

AMENDED IN ASSEMBLY MAY 4, 2005
AMENDED IN ASSEMBLY MARCH 31, 2005
CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1581

Introduced by Assembly Member Garcia

February 22, 2005

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1581, as amended, Garcia. Identity theft.

Existing law makes it a felony or misdemeanor to willfully obtain the personal identifying information of another person and use it unlawfully, including to obtain credit, goods, or services. Further, existing law makes it a misdemeanor to acquire, transfer, or retain the personal information of another with the intent to defraud.

This bill would make it a felony or a misdemeanor to acquire, transfer, or retain the personal information of ~~2~~ 100 or more persons with the intent to defraud.

Because this bill would expand the definition of a crime it imposes 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. Section 530.5 of the Penal Code is amended to
2 read:

3 530.5. (a) Every person who willfully obtains personal
4 identifying information, as defined in subdivision (b), of another
5 person, and uses that information for any unlawful purpose,
6 including to obtain, or attempt to obtain, credit, goods, services,
7 or medical information in the name of the other person without
8 the consent of that person, is guilty of a public offense, and upon
9 conviction therefor, shall be punished either by imprisonment in
10 a county jail not to exceed one year, a fine not to exceed one
11 thousand dollars (\$1,000), or both that imprisonment and fine, or
12 by imprisonment in the state prison, a fine not to exceed ten
13 thousand dollars (\$10,000), or both that imprisonment and fine.

14 (b) "Personal identifying information," as used in this section,
15 means the name, address, telephone number, health insurance
16 identification number, taxpayer identification number, school
17 identification number, state or federal driver's license number, or
18 identification number, social security number, place of
19 employment, employee identification number, mother's maiden
20 name, demand deposit account number, savings account number,
21 checking account number, PIN (personal identification number)
22 or password, alien registration number, government passport
23 number, date of birth, unique biometric data including
24 fingerprint, facial scan identifiers, voice print, retina or iris
25 image, or other unique physical representation, unique electronic
26 data including identification number, address, or routing code,
27 telecommunication identifying information or access device,
28 information contained in a birth or death certificate, or credit card
29 number of an individual person.

30 (c) In any case in which a person willfully obtains personal
31 identifying information of another person, uses that information
32 to commit a crime in addition to a violation of subdivision (a),
33 and is convicted of that crime, the court records shall reflect that
34 the person whose identity was falsely used to commit the crime
35 did not commit the crime.

36 (d) Every person who, with the intent to defraud, acquires,
37 transfers, or retains possession of the personal identifying
38 information, as defined in subdivision (b), of another person is

1 guilty of a public offense, and upon conviction therefor, shall be
2 punished by imprisonment in a county jail not to exceed one
3 year, or a fine not to exceed one thousand dollars (\$1,000), or by
4 both that imprisonment and fine.

5 (e) Every person who, with the intent to defraud, acquires,
6 transfers, or retains possession of the personal identifying
7 information, as defined in subdivision (b), of ~~two~~ 100 or more
8 persons is guilty of a public offense, and upon conviction
9 therefor, shall be punished either by imprisonment in a county
10 jail not to exceed one year, a fine not to exceed one thousand
11 dollars (\$1,000), or both that imprisonment and fine, or by ~~either~~
12 imprisonment in the state prison, ~~a fine not to exceed ten~~
13 ~~thousand dollars (\$10,000), or both that imprisonment and fine.~~

14 SEC. 2. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the
19 penalty for a crime or infraction, within the meaning of Section
20 17556 of the Government Code, or changes the definition of a
21 crime within the meaning of Section 6 of Article XIII B of the
22 California Constitution.