

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 22, 2006

AMENDED IN ASSEMBLY MARCH 30, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2333**

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**Introduced by Assembly Member Parra**  
**(Coauthor: Assembly Member Calderon)**  
*(Coauthor: Senator Poochigian)*

February 23, 2006

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An act to amend Section 530.5 of, *and to add Section 530.55 to*, the Penal Code, relating to identity theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 2333, as amended, Parra. Identity theft.

Existing law provides that every person who, with the intent to defraud, acquires, transfers, or retains possession of the personal identifying information of another person is guilty of a crime punishable by *a fine, by imprisonment in a county jail for a period not to exceed one year, a fine not to exceed \$1,000 or a fine not to exceed \$1,500 if the person has been ordered to serve temporary military duty outside of the state, or by both that imprisonment and fine a fine and imprisonment.*

This bill would ~~also~~ *instead* provide that every person who, with the intent to defraud, acquires, ~~transfers~~, or retains possession of the personal identifying information of ~~10 or more other persons is guilty of a crime punishable by imprisonment in the state prison for 16~~

~~months, or 2 or 3 years, or by imprisonment in a county jail for a period not to exceed one year, or by a fine not to exceed \$1,000, or by both imprisonment and fine another person, and who has previously been convicted of a violation of provisions proscribing identity theft, or who, with the intent to defraud, acquires or retains possession of the personal identifying information of 10 or more other persons, shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment in the state prison. This bill would also provide that any person who, with intent to defraud, or who knows or reasonably should know that the identifying information will be used to commit identity theft, sells, transfers, or conveys the personal identifying information of another person shall be punished by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment in the state prison.~~

*This bill would specify that, for purposes of these provisions, “person” includes natural persons living and deceased, and organizations, associations, business relationships and other legal entities, expand the definition of “personal identifying information” to include any identifying information that uniquely describes a person, and make other conforming changes.*

~~Because this bill would create a new crime~~ *expand the definition of existing crimes and create new crimes,* it would impose 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 *Section*
- 5 *530.55*, of another person, and uses that information for any

1 unlawful purpose, including to obtain, or attempt to obtain,  
 2 credit, goods, services, *real property*, or medical information ~~in~~  
 3 ~~the name of the other person~~ without the consent of that person,  
 4 is guilty of a public offense, and upon conviction therefor, shall  
 5 be punished ~~either by a fine, by imprisonment in a county jail not~~  
 6 ~~to exceed one year, a fine not to exceed one thousand dollars~~  
 7 ~~(\$1,000); or by both that imprisonment and fine~~ *fine and*  
 8 *imprisonment*, or by imprisonment in the state prison, ~~a fine not~~  
 9 ~~to exceed ten thousand dollars (\$10,000), or by both that~~  
 10 ~~imprisonment and fine.~~

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

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

33 (d)

34 (b) (1) Every person who, with the intent to defraud, acquires,  
 35 ~~transfers, or retains possession of the personal identifying~~  
 36 ~~information, as defined in subdivision (b) of Section 530.55, of~~  
 37 ~~another person is guilty of a public offense, and upon conviction~~  
 38 ~~therefor, shall be punished by a fine, by imprisonment in a county~~  
 39 ~~jail not to exceed one year, or a fine not to exceed one thousand~~

1 dollars (\$1,000), or by ~~both that imprisonment and fine~~ *both fine*  
2 *and imprisonment.*

3 (2) *Every person who, with the intent to defraud, acquires or*  
4 *retains possession of the personal identifying information, as*  
5 *defined in subdivision (b) of Section 530.55, of another person,*  
6 *and who has previously been convicted of a violation of this*  
7 *section, upon conviction therefor shall be punished by a fine, by*  
8 *imprisonment in a county jail not to exceed one year, or by both*  
9 *a fine and imprisonment, or by imprisonment in the state prison.*

10 (3) *Every person who, with the intent to defraud, acquires or*  
11 *retains possession of the personal identifying information, as*  
12 *defined in subdivision (b) of Section 530.55, of 10 or more other*  
13 *persons is guilty of a public offense, and upon conviction*  
14 *therefor, shall be punished by a fine, by imprisonment in a county*  
15 *jail not to exceed one year, or by both a fine and imprisonment,*  
16 *or by imprisonment in the state prison.*

17 (c) *Every person who, with the intent to defraud, or who*  
18 *knows or reasonably should know that the identifying*  
19 *information will be used to commit a violation of subdivision (a),*  
20 *sells, transfers, or conveys the personal identifying information,*  
21 *as defined in subdivision (b) of Section 530.55, of another person*  
22 *is guilty of a public offense, and upon conviction therefor, shall*  
23 *be punished by a fine, by imprisonment in a county jail not to*  
24 *exceed one year, or by both a fine and imprisonment, or by*  
25 *imprisonment in the state prison.*

26 (e) ~~Every person who, with the intent to defraud, acquires,~~  
27 ~~transfers, or retains possession of the personal identifying~~  
28 ~~information, as defined in subdivision (b), of another person who~~  
29 ~~is deployed to a location outside of the state is guilty of a public~~  
30 ~~offense, and upon conviction therefor, shall be punished by~~  
31 ~~imprisonment in a county jail not to exceed one year, or a fine~~  
32 ~~not to exceed one thousand five hundred dollars (\$1,500), or by~~  
33 ~~both that imprisonment and fine.~~

34 (f) ~~Every person who, with intent to defraud, acquires,~~  
35 ~~transfers, or retains possession of the personal identifying~~  
36 ~~information, as defined in subdivision (b), of 10 or more other~~  
37 ~~persons is guilty of a public offense, and upon conviction~~  
38 ~~therefor, shall be punished by imprisonment in the state prison~~  
39 ~~for 16 months, or two or three years, or by imprisonment in a~~

1 county jail not to exceed one year, or by a fine not to exceed one  
2 thousand dollars (\$1,000), or by both imprisonment and fine.

3 ~~(g) For purposes of this section, “deployed” means that the~~  
4 ~~person has been ordered to serve temporary military duty during~~  
5 ~~a period when a presidential executive order specifies that the~~  
6 ~~United States is engaged in combat or homeland defense and he~~  
7 ~~or she is either a member of the Armed Forces, or is a member of~~  
8 ~~the Armed Forces reserve or the National Guard, who has been~~  
9 ~~called to active duty or active service. It does not include~~  
10 ~~temporary duty for the sole purpose of training or processing or a~~  
11 ~~permanent change of station.~~

12 ~~(h) For purposes of this section, “person” means a natural~~  
13 ~~person, firm, association, organization, partnership, business~~  
14 ~~trust, company, corporation, limited liability company, or public~~  
15 ~~entity.~~

16 ~~(i)~~

17 ~~(d) An interactive computer service or access software~~  
18 ~~provider, as defined in subsection (f) of Section 230 of Title 47~~  
19 ~~of the United States Code, shall not be liable under this section~~  
20 ~~unless the service or provider acquires, transfers, or retains~~  
21 ~~possession of personal information with the intent to defraud.~~

22 *SEC. 2. Section 530.55 is added to the Penal Code, to read:*

23 *530.55. (a) For purposes of this chapter, “person” means a*  
24 *natural person, living or deceased, firm, association,*  
25 *organization, partnership, business trust, company, corporation,*  
26 *limited liability company, or public entity, or any other legal*  
27 *entity.*

28 *(b) For purposes of this chapter, “personal identifying*  
29 *information” means either of the following:*

30 *(1) Any name or number that may be used alone, or in*  
31 *conjunction with any other information, to identify a specific*  
32 *individual person, by name, address, telephone number, health*  
33 *insurance number, taxpayer identification number, school*  
34 *identification number, state or federal driver’s license, or*  
35 *identification number, social security number, place of*  
36 *employment, employee identification number, professional or*  
37 *occupational number, mother’s maiden name, demand deposit*  
38 *account number, savings account number, checking account*  
39 *number, PIN (personal identification number) or password, alien*  
40 *registration number, government passport number, date of birth,*

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

8 (2) *Any other identifying information that uniquely describes a*  
9 *person.*

10 ~~SEC. 2.~~

11 SEC. 3. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the  
16 penalty for a crime or infraction, within the meaning of Section  
17 17556 of the Government Code, or changes the definition of a  
18 crime within the meaning of Section 6 of Article XIII B of the  
19 California Constitution.