

**Introduced by Senator Alquist**

February 23, 2009

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An act to amend Section 786 of the Penal Code, relating to identity theft.

LEGISLATIVE COUNSEL'S DIGEST

SB 226, as introduced, Alquist. Identity theft: jurisdiction.

Existing law provides that when multiple offenses occur in multiple jurisdictions and all of the offenses involve the same defendant or defendants and the unauthorized use of the personal identifying information of the same person, then jurisdiction for all offenses is proper in any one of the counties where one of the offenses occurred.

This bill would provide, in addition, that when multiple offenses occur in multiple jurisdictions and all of the offenses involve the same defendant or defendants and the same scheme or substantially similar activity, then jurisdiction for all offenses is proper in any one of the counties where one of the offenses occurred.

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

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

- 1 SECTION 1. Section 786 of the Penal Code is amended to
- 2 read:
- 3 786. (a) When property taken in one jurisdictional territory
- 4 by burglary, carjacking, robbery, theft, or embezzlement has been
- 5 brought into another, or when property is received in one
- 6 jurisdictional territory with the knowledge that it has been stolen
- 7 or embezzled and the property was stolen or embezzled in another

1 jurisdictional territory, the jurisdiction of the offense is in any  
2 competent court within either jurisdictional territory, or any  
3 contiguous jurisdictional territory if the arrest is made within the  
4 contiguous territory, the prosecution secures on the record the  
5 defendant's knowing, voluntary, and intelligent waiver of the right  
6 of vicinage, and the defendant is charged with one or more property  
7 crimes in the arresting territory.

8 (b) (1) The jurisdiction of a criminal action for unauthorized  
9 use, retention, or transfer of personal identifying information, as  
10 defined in subdivision (b) of Section 530.55, shall also include the  
11 county where the theft of the personal identifying information  
12 occurred, the county in which the victim resided at the time the  
13 offense was committed, or the county where the information was  
14 used for an illegal purpose. If multiple offenses of unauthorized  
15 use of personal identifying information, *either* all involving the  
16 same defendant or defendants and the same personal identifying  
17 information belonging to the one person, *or all involving the same*  
18 *defendant or defendants and the same scheme or substantially*  
19 *similar activity* occur in multiple jurisdictions, any one of those  
20 jurisdictions is a proper jurisdiction for all of the offenses.

21 (2) When charges alleging multiple offenses of unauthorized  
22 use of personal identifying information occurring in multiple  
23 territorial jurisdictions are filed in one county pursuant to this  
24 section, the court shall hold a hearing to consider whether the  
25 matter should proceed in the county of filing, or whether one or  
26 more counts should be severed. The district attorney filing the  
27 complaint shall present evidence to the court that the district  
28 attorney in each county where any of the charges could have been  
29 filed has agreed that the matter should proceed in the county of  
30 filing. In determining whether all counts in the complaint should  
31 be joined in one county for prosecution, the court shall consider  
32 the location and complexity of the likely evidence, where the  
33 majority of the offenses occurred, the rights of the defendant and  
34 the people, and the convenience of, or hardship to, the victim and  
35 witnesses.

36 (3) When an action for unauthorized use, retention, or transfer  
37 of personal identifying information is filed in the county in which  
38 the victim resided at the time the offense was committed, and no  
39 other basis for the jurisdiction applies, the court, upon its own  
40 motion or the motion of the defendant, shall hold a hearing to

1 determine whether the county of the victim’s residence is the proper  
2 venue for trial of the case. In ruling on the matter, the court shall  
3 consider the rights of the parties, the access of the parties to  
4 evidence, the convenience to witnesses, and the interests of justice.  
5 (c) This section shall not be interpreted to alter victims’ rights  
6 under Section 530.6.

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