

AMENDED IN ASSEMBLY JUNE 11, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 226

Introduced by Senator Alquist

February 23, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

SB 226, as amended, 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 one person, then jurisdiction for all offenses is proper in any one of the counties where an offense 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, *including associated offenses connected together in their commission to an underlying identity theft offense*, is proper in any one of the counties where one of the offenses occurred.

Existing law requires a court to consider specified facts when determining if all counts in a complaint alleging multiple offenses of unauthorized use of personal identifying information occurring in multiple counties should be joined in one county for prosecution.

This bill would, in addition, require the court to consider whether or not the offenses involved substantially similar activity or the same scheme when making that determination.

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
8 jurisdictional territory, the jurisdiction of the offense is in any
9 competent court within either jurisdictional territory, or any
10 contiguous jurisdictional territory if the arrest is made within the
11 contiguous territory, the prosecution secures on the record the
12 defendant's knowing, voluntary, and intelligent waiver of the right
13 of vicinage, and the defendant is charged with one or more property
14 crimes in the arresting territory.

15 (b) (1) The jurisdiction of a criminal action for unauthorized
16 use, retention, or transfer of personal identifying information, as
17 defined in subdivision (b) of Section 530.55, shall also include the
18 county where the theft of the personal identifying information
19 occurred, the county in which the victim resided at the time the
20 offense was committed, or the county where the information was
21 used for an illegal purpose. If multiple offenses of unauthorized
22 use of personal identifying information, either all involving the
23 same defendant or defendants and the same personal identifying
24 information belonging to the one person, or all involving the same
25 defendant or defendants and the same scheme or substantially
26 ~~similar activity occur in multiple jurisdictions, any one of those~~
27 ~~jurisdictions is a proper jurisdiction for all of the offenses; similar~~
28 *activity, occur in multiple jurisdictions, the jurisdiction for all of*
29 *those offenses, and for associated offenses connected together in*
30 *commission with an underlying identify theft offense, is in any*
31 *jurisdiction where at least one of the offenses occurred.*

32 (2) When charges alleging multiple offenses of unauthorized
33 use of personal identifying information occurring in multiple
34 territorial jurisdictions are filed in one county pursuant to this
35 section, the court shall hold a hearing to consider whether the

1 matter should proceed in the county of filing, or whether one or
2 more counts should be severed. The district attorney filing the
3 complaint shall present evidence to the court that the district
4 attorney in each county where any of the charges could have been
5 filed has agreed that the matter should proceed in the county of
6 filing. In determining whether all counts in the complaint should
7 be joined in one county for prosecution, the court shall consider
8 the location and complexity of the likely evidence, where the
9 majority of the offenses occurred, whether or not the offenses
10 involved substantially similar activity or the same scheme, the
11 rights of the defendant and the people, and the convenience of, or
12 hardship to, the victim and witnesses.

13 (3) When an action for unauthorized use, retention, or transfer
14 of personal identifying information is filed in the county in which
15 the victim resided at the time the offense was committed, and no
16 other basis for the jurisdiction applies, the court, upon its own
17 motion or the motion of the defendant, shall hold a hearing to
18 determine whether the county of the victim's residence is the proper
19 venue for trial of the case. In ruling on the matter, the court shall
20 consider the rights of the parties, the access of the parties to
21 evidence, the convenience to witnesses, and the interests of justice.

22 (c) This section shall not be interpreted to alter victims' rights
23 under Section 530.6.