

ASSEMBLY BILL

No. 426

Introduced by Assembly Member Melendez

February 19, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 426, as introduced, Melendez. Identity theft.

Existing law provides that every person who willfully obtains personal identifying information, as defined, of another person, and uses that information for any unlawful purpose, including to obtain, or attempt to obtain, credit, goods, services, real property, or medical information without the consent of that person, is guilty of a public offense, and upon conviction, 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, as specified.

This bill would make technical, nonsubstantive changes to that provision.

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 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, credit,
2 goods, services, real property, or medical information without the
3 consent of ~~that~~ *the other* person, is guilty of a public offense, and
4 upon ~~conviction therefor~~, *conviction*, shall be punished by a fine,
5 by imprisonment in a county jail not to exceed one year, or by both
6 a fine and imprisonment, or by imprisonment pursuant to
7 subdivision (h) of Section 1170.

8 (b) 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), and
11 is convicted of that crime, the court records shall reflect that the
12 person whose identity was falsely used to commit the crime did
13 not commit the crime.

14 (c) (1) Every person who, with the intent to defraud, acquires
15 or retains possession of the personal identifying information, as
16 defined in subdivision (b) of Section 530.55, of another person is
17 guilty of a public offense, and upon ~~conviction therefor~~, *conviction*,
18 shall be punished by a fine, by imprisonment in a county jail not
19 to exceed one year, or by both a fine and imprisonment.

20 (2) Every person who, with the intent to defraud, acquires or
21 retains possession of the personal identifying information, as
22 defined in subdivision (b) of Section 530.55, of another person,
23 and who has previously been convicted of a violation of this
24 section, upon conviction therefor shall be punished by a fine, by
25 imprisonment in a county jail not to exceed one year, or by both
26 a fine and imprisonment, or by imprisonment pursuant to
27 subdivision (h) of Section 1170.

28 (3) Every person who, with the intent to defraud, acquires or
29 retains possession of the personal identifying information, as
30 defined in subdivision (b) of Section 530.55, of 10 or more other
31 persons is guilty of a public offense, and upon ~~conviction therefor~~,
32 *conviction*, shall be punished by a fine, by imprisonment in a
33 county jail not to exceed one year, or by both a fine and
34 imprisonment, or by imprisonment pursuant to subdivision (h) of
35 Section 1170.

36 (d) (1) Every person who, with the intent to defraud, sells,
37 transfers, or conveys the personal identifying information, as
38 defined in subdivision (b) of Section 530.55, of another person is
39 guilty of a public offense, and upon ~~conviction therefor~~, *conviction*,
40 shall be punished by a fine, by imprisonment in a county jail not

1 to exceed one year, or by both a fine and imprisonment, or by
2 imprisonment pursuant to subdivision (h) of Section 1170.

3 (2) Every person who, with actual knowledge that the personal
4 identifying information, as defined in subdivision (b) of Section
5 530.55, of a specific person will be used to commit a violation of
6 subdivision (a), sells, transfers, or conveys that same personal
7 identifying information is guilty of a public offense, and upon
8 ~~conviction therefor~~, *conviction*, shall be punished by a fine, by
9 imprisonment pursuant to subdivision (h) of Section 1170, or by
10 both a fine and imprisonment.

11 (e) Every person who commits mail theft, as defined in Section
12 1708 of Title 18 of the United States Code, is guilty of a public
13 offense, and upon ~~conviction therefor~~ shall be punished by a fine,
14 by imprisonment in a county jail not to exceed one year, or by both
15 a fine and imprisonment. Prosecution under this subdivision shall
16 not limit or preclude prosecution under any other provision of law,
17 including, but not limited to, subdivisions (a) to (c), inclusive, of
18 this section.

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