

Introduced by Senator DuttonFebruary 18, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

SB 784, as introduced, Dutton. Identity theft.

Existing law requires that every person who willfully obtains personal identifying information, as defined, of another person, and uses that information for an 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.

This bill would make a technical, nonsubstantive change 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~~ *an*
- 6 unlawful purpose, including to obtain, or attempt to obtain, credit,
- 7 goods, services, real property, or medical information without the
- 8 consent of that person, is guilty of a public offense, and upon
- 9 conviction therefor, shall be punished by a fine, by imprisonment

1 in a county jail not to exceed one year, or by both a fine and
2 imprisonment, or by imprisonment in the state prison.

3 (b) In any case in which a person willfully obtains personal
4 identifying information of another person, uses that information
5 to commit a crime in addition to a violation of subdivision (a), and
6 is convicted of that crime, the court records shall reflect that the
7 person whose identity was falsely used to commit the crime did
8 not commit the crime.

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

15 (2) Every person who, with the intent to defraud, acquires or
16 retains possession of the personal identifying information, as
17 defined in subdivision (b) of Section 530.55, of another person,
18 and who has previously been convicted of a violation of this
19 section, upon conviction therefor shall be punished by a fine, by
20 imprisonment in a county jail not to exceed one year, or by both
21 a fine and imprisonment, or by imprisonment in the state prison.

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

29 (d) (1) Every person who, with the intent to defraud, sells,
30 transfers, or conveys the personal identifying information, as
31 defined in subdivision (b) of Section 530.55, of another person is
32 guilty of a public offense, and upon conviction therefor, shall be
33 punished by a fine, by imprisonment in a county jail not to exceed
34 one year, or by both a fine and imprisonment, or by imprisonment
35 in the state prison.

36 (2) Every person who, with actual knowledge that the personal
37 identifying information, as defined in subdivision (b) of Section
38 530.55, of a specific person will be used to commit a violation of
39 subdivision (a), sells, transfers, or conveys that same personal
40 identifying information is guilty of a public offense, and upon

1 conviction therefor, shall be punished by a fine, by imprisonment
2 in the state prison, or by both a fine and imprisonment.

3 (e) Every person who commits mail theft, as defined in Section
4 1708 of Title 18 of the United States Code, is guilty of a public
5 offense, and upon conviction therefor shall be punished by a fine,
6 by imprisonment in a county jail not to exceed one year, or by both
7 a fine and imprisonment. Prosecution under this subdivision shall
8 not limit or preclude prosecution under any other provision of law,
9 including, but not limited to, subdivisions (a) to (c), inclusive, of
10 this section.

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