

SECOND REGULAR SESSION

HOUSE BILL NO. 1604

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LAMPE (Sponsor), JOHNSON (61), OXFORD, YAEGER, WALTON, SCHOEMEHL, CHAPPELLE-NADAL, ROBINSON, RUCKER, BOWMAN, VILLA, DAUS, FRASER, BURNETT, YOUNG, JOHNSON (90), BLAND, FISHER, McGHEE, KUESSNER, BAKER (25), STORCH, WILDBERGER, WHORTON, MEINERS, MEADOWS AND ROORDA (Co-sponsors).

Read 1st time January 31, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4743L.01I

AN ACT

To repeal section 570.223, RSMo, and to enact in lieu thereof one new section relating to unlawfully obtaining call logs, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 570.223, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 570.223, to read as follows:

570.223. 1. A person commits the crime of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, transfer or use, one or more means of identification not lawfully issued for his or her use.

2. The term "means of identification" as used in this section includes, but is not limited to, the following:

- (1) Social Security numbers;
- (2) Drivers license numbers;
- (3) Checking account numbers;
- (4) Savings account numbers;
- (5) Credit card numbers;
- (6) Debit card numbers;
- (7) Personal identification (PIN) code;
- (8) Electronic identification numbers;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

- 14 (9) Digital signatures;
- 15 (10) Any other numbers or information that can be used to access a person's financial
16 resources;
- 17 (11) Biometric data;
- 18 (12) Fingerprints;
- 19 (13) Passwords;
- 20 (14) Parent's legal surname prior to marriage;
- 21 (15) Passports; [or]
- 22 (16) Birth certificates; **or**
- 23 **(17) Telephone or cellular phone call logs.**
- 24 3. A person found guilty of identity theft shall be punished as follows:
- 25 (1) Identity theft or attempted identity theft which does not result in the theft or
26 appropriation of credit, money, goods, services, or other property is a class B misdemeanor;
- 27 (2) Identity theft which results in the theft or appropriation of credit, money, goods,
28 services, or other property not exceeding five hundred dollars in value is a class A misdemeanor;
- 29 (3) Identity theft which results in the theft or appropriation of credit, money, goods,
30 services, or other property exceeding five hundred dollars and not exceeding five thousand
31 dollars in value is a class C felony;
- 32 (4) Identity theft which results in the theft or appropriation of credit, money, goods,
33 services, or other property exceeding five thousand dollars and not exceeding fifty thousand
34 dollars in value is a class B felony;
- 35 (5) Identity theft which results in the theft or appropriation of credit, money, goods,
36 services, or other property exceeding fifty thousand dollars in value is a class A felony.
- 37 4. In addition to the provisions of subsection 3 of this section, the court may order that
38 the defendant make restitution to any victim of the offense. Restitution may include payment
39 for any costs, including attorney fees, incurred by the victim:
- 40 (1) In clearing the credit history or credit rating of the victim; and
- 41 (2) In connection with any civil or administrative proceeding to satisfy any debt, lien,
42 or other obligation of the victim arising from the actions of the defendant.
- 43 5. In addition to the criminal penalties in subsections 3 and 4 of this section, any person
44 who commits an act made unlawful by subsection 1 of this section shall be liable to the person
45 to whom the identifying information belonged for civil damages of up to five thousand dollars
46 for each incident, or three times the amount of actual damages, whichever amount is greater. A
47 person damaged as set forth in subsection 1 of this section may also institute a civil action to
48 enjoin and restrain future acts that would constitute a violation of subsection 1 of this section.

49 The court, in an action brought under this subsection, may award reasonable attorneys' fees to
50 the plaintiff.

51 6. If the identifying information of a deceased person is used in a manner made unlawful
52 by subsection 1 of this section, the deceased person's estate shall have the right to recover
53 damages pursuant to subsection 5 of this section.

54 7. Civil actions under this section must be brought within five years from the date on
55 which the identity of the wrongdoer was discovered or reasonably should have been discovered.

56 8. Civil action pursuant to this section does not depend on whether a criminal
57 prosecution has been or will be instituted for the acts that are the subject of the civil action. The
58 rights and remedies provided by this section are in addition to any other rights and remedies
59 provided by law.

60 9. This section and section 570.224 shall not apply to the following activities:

61 (1) A person obtains the identity of another person to misrepresent his or her age for the
62 sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or
63 another privilege denied to minors. Nothing in this subdivision shall affect the provisions of
64 subsection 10 of this section;

65 (2) A person obtains means of identification or information in the course of a bona fide
66 consumer or commercial transaction;

67 (3) A person exercises, in good faith, a security interest or right of offset by a creditor
68 or financial institution;

69 (4) A person complies, in good faith, with any warrant, court order, levy, garnishment,
70 attachment, or other judicial or administrative order, decree, or directive, when any party is
71 required to do so;

72 (5) A person is otherwise authorized by law to engage in the conduct that is the subject
73 of the prosecution.

74 10. Any person who obtains, transfers, or uses any means of identification for the
75 purpose of manufacturing and providing or selling a false identification card to a person under
76 the age of twenty-one for the purpose of purchasing or obtaining alcohol shall be guilty of a class
77 A misdemeanor.

78 11. Notwithstanding the provisions of subdivision (1) or (2) of subsection 3 of this
79 section, every person who has previously pled guilty to or been found guilty of identity theft or
80 attempted identity theft, and who subsequently pleads guilty to or is found guilty of identity theft
81 or attempted identity theft of credit, money, goods, services, or other property not exceeding five
82 hundred dollars in value is guilty of a class D felony and shall be punished accordingly.

83 12. The value of property or services is its highest value by any reasonable standard at
84 the time the identity theft is committed. Any reasonable standard includes, but is not limited to,
85 market value within the community, actual value, or replacement value.

86 13. If credit, property, or services are obtained by two or more acts from the same person
87 or location, or from different persons by two or more acts which occur in approximately the same
88 location or time period so that the identity thefts are attributable to a single scheme, plan, or
89 conspiracy, the acts may be considered as a single identity theft and the value may be the total
90 value of all credit, property, and services involved.

91 **14. It shall be unlawful for any person, without legal authorization, to purchase,**
92 **sell, or otherwise obtain the telephone or cellular phone call logs of another individual**
93 **without consent. Violation of the provisions of this subsection is a class B misdemeanor.**

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