



STATE OF CONNECTICUT

DEPARTMENT OF CONSUMER PROTECTION

Testimony of

Department of Consumer Protection
Commissioner Jerry Farrell, Jr.

Presented to the General Law Committee

Tuesday, February 26, 2008

Regarding Senate Bill No. 30
"An Act Concerning Consumer Privacy and Identity Theft."

Senator Colapietro, Representative Stone, and members of the Committee, I am Jerry Farrell, Jr., the Commissioner of the Department of Consumer Protection. It is my pleasure to submit testimony to strongly support Senate Bill No. 30, "An Act Concerning Consumer Privacy and Identity Theft."

This proposal specifically enacts the individual recommendations of the Governor's Identity Theft Task Force as one comprehensive broad-based consumer privacy and identity theft prevention bill. Many state agencies took part in this Task Force. The Department thanks the Governor for her leadership on this very important topic.

Many consumer complaints have been received by the Department in the area of identity theft, and this crime has quickly become a widespread problem of national scope. With this proposal, the State of Connecticut will be able to do more to prevent identity theft by limiting the dissemination of personal identifying information, including social security numbers and birthdates, therefore helping to prevent the initial sharing and stealing of this sensitive information in the first place. This proposal will also greatly assist enforcement efforts by adding to the criminal and civil penalties that would befall those who steal, improperly use, and cause further distribution of personal identifying information.

Senate Bill No. 30 specifically advances the following changes to the General Statutes:

Section One modifies Conn. Gen. Stat. Section 53a-129a(a) to alleviate the problem of having to prove both that the defendant obtained personal identification information ("PII") without authorization and that it was used without consent. For example, in a divorce or other domestic situation where one spouse is charged with using the PII of the other that was obtained in the course of the marriage, the argument can be made that the defendant did not obtain the information without authorization, therefore the crime of identity theft is not applicable even though it was used without the other spouse's consent.

Section Two of this proposal upgrades the crime of criminal impersonation (Section 53a-130) from a class B misdemeanor (term of imprisonment not to exceed 6 months, fine up to \$1000) to a class A misdemeanor (term of imprisonment up to one year, fine up to \$2000). This upgrade better reflects the seriousness of the offense, especially as it pertains to using or assuming another's identity to obtain credit, an act that can have serious and ongoing consequences for the victim.

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Section Three creates a new criminal statute making it a crime to possess access devices, document-making equipment, and authentication implements for the purpose of obtaining, tampering with, or using the personal identifying information of another person. Current law does not criminalize the simple possession of items like these, but would require their use to obtain a benefit to constitute identity theft.

Section Four of this proposal creates a new criminal provision targeting those individuals who obtain or assist another in obtaining a license, registration, certificate or other personal identification document with knowledge that that the person obtaining the document is not entitled to it.

Section Five modifies Section 52-571h to clarify that damages can include lost wages and financial losses suffered as a result of identity theft crimes. The proposal also requires the court to issue an order of restitution against the guilty party to allow full compensation for the victims. The proposal also extends the statute of limitations for filing a lawsuit pursuant to this section from two years to three.

Section Six modifies Section 54-93a to require a sentencing court to issue any order or orders necessary to correct any public or private record that contains false information as a result of a criminal act of identity theft. Courts currently have discretion in issuing these orders.

Section Seven of this proposal amends Section 54-1d(e) to clarify that a case could be presented and prosecuted in the superior court Judicial District where the victim resides. This proposal would effectuate the intent of the original legislative proposal, which was to allow the victim to report these cases to their local police department (Conn. Gen. Stat. § 54-1n) and have their case prosecuted in the Judicial District where they reside. The proposed language corrects ambiguity caused when sub-section (c) was passed, where the term "presented" was used instead of "prosecuted."

Section Eight of this proposal creates a new privacy protection statute that will help prevent the stealing and misuse of personal identifying information, including social security numbers, by businesses. The penalties for violating these provisions would be those available in the Connecticut Unfair Trade Practices Act, §42-110a, et seq.

Section Nine of this proposal will help to prevent the alteration of licenses, registrations and certificates, by adding a new criminal violation: §53a-129h. Any alteration will automatically void the document, any fees paid when issued or renewed would be forfeited to the issuing authority, and any person performing an alteration would be subject to a Class A misdemeanor for this new crime.

Section Ten of this proposal amends the asset forfeiture statute (Section 54-36h) to provide for the forfeiture of any money, proceeds, property or goods obtained directly or indirectly from a violation of the identity theft statutes.

Section Eleven helps to protect data held by banking institutions.

Sections Twelve through Fourteen contain provisions to prevent the improper use and dissemination of personal identifying information, such as through the mail, or in order to gain access to a website. They also contains an "opt-out" provision for consumers to prevent their data from being shared, and create rules and a timeline for State agencies to limit person data collection and distribution.

Sections Fifteen through Twenty create civil penalties for each violation of the act, establish a "Privacy Protection Guaranty and Enforcement Account" within the Department of Consumer Protection, and allow the Commissioner to hold hearings, issue subpoenas, and enact regulations to further the purposes of the Act.

We strongly favor each of the privacy protections for Connecticut residents that are established in this proposal, and respectfully ask the Committee to support Senate Bill No. 30. The Department thanks the Chairs and members of the General Law Committee for the opportunity to present the above testimony.