

SECOND REGULAR SESSION

# SENATE BILL NO. 899

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS DOUGHERTY AND BRAY.

Read 1st time January 18, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4573S.011

## 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Section A. Section 570.223, RSMo, is repealed and one new section  
2 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  
2 knowingly and with the intent to deceive or defraud obtains, possesses, transfers,  
3 uses, or attempts to obtain, transfer or use, one or more means of identification  
4 not lawfully issued for his or her use.

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

- 7 (1) Social Security numbers;
- 8 (2) Drivers license numbers;
- 9 (3) Checking account numbers;
- 10 (4) Savings account numbers;
- 11 (5) Credit card numbers;
- 12 (6) Debit card numbers;
- 13 (7) Personal identification (PIN) code;
- 14 (8) Electronic identification numbers;
- 15 (9) Digital signatures;
- 16 (10) Any other numbers or information that can be used to access a  
17 person's financial resources;
- 18 (11) Biometric data;
- 19 (12) Fingerprints;

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

- 20 (13) Passwords;
- 21 (14) Parent's legal surname prior to marriage;
- 22 (15) Passports; [or]
- 23 (16) Birth certificates; **or**
- 24 **(17) Telephone or cellular phone call logs.**

25 3. A person found guilty of identity theft shall be punished as follows:

26 (1) Identity theft or attempted identity theft which does not result in the  
27 theft or appropriation of credit, money, goods, services, or other property is a  
28 class B misdemeanor;

29 (2) Identity theft which results in the theft or appropriation of credit,  
30 money, goods, services, or other property not exceeding five hundred dollars in  
31 value is a class A misdemeanor;

32 (3) Identity theft which results in the theft or appropriation of credit,  
33 money, goods, services, or other property exceeding five hundred dollars and not  
34 exceeding five thousand dollars in value is a class C felony;

35 (4) Identity theft which results in the theft or appropriation of credit,  
36 money, goods, services, or other property exceeding five thousand dollars and not  
37 exceeding fifty thousand dollars in value is a class B felony;

38 (5) Identity theft which results in the theft or appropriation of credit,  
39 money, goods, services, or other property exceeding fifty thousand dollars in value  
40 is a class A felony.

41 4. In addition to the provisions of subsection 3 of this section, the court  
42 may order that the defendant make restitution to any victim of the  
43 offense. Restitution may include payment for any costs, including attorney fees,  
44 incurred by the victim:

45 (1) In clearing the credit history or credit rating of the victim; and

46 (2) In connection with any civil or administrative proceeding to satisfy any  
47 debt, lien, or other obligation of the victim arising from the actions of the  
48 defendant.

49 5. In addition to the criminal penalties in subsections 3 and 4 of this  
50 section, any person who commits an act made unlawful by subsection 1 of this  
51 section shall be liable to the person to whom the identifying information belonged  
52 for civil damages of up to five thousand dollars for each incident, or three times  
53 the amount of actual damages, whichever amount is greater. A person damaged  
54 as set forth in subsection 1 of this section may also institute a civil action to  
55 enjoin and restrain future acts that would constitute a violation of subsection 1

56 of this section. The court, in an action brought under this subsection, may award  
57 reasonable attorneys' fees to the plaintiff.

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

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

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

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

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

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

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

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

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

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

87           11. Notwithstanding the provisions of subdivision (1) or (2) of subsection  
88 3 of this section, every person who has previously pled guilty to or been found  
89 guilty of identity theft or attempted identity theft, and who subsequently pleads  
90 guilty to or is found guilty of identity theft or attempted identity theft of credit,  
91 money, goods, services, or other property not exceeding five hundred dollars in

92 value is guilty of a class D felony and shall be punished accordingly.

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

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

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

Bill ✓

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