

JUDICIARY

SENATE FILE 2200
BY KREIMAN

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing the criminal offense of and a civil cause of
2 action for the unauthorized collection and disclosure of
3 personal information by computer, and providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2200 JUDICIARY

1 Section 1. NEW SECTION. 716.6C UNAUTHORIZED COLLECTION
2 AND DISCLOSURE OF PERSONAL INFORMATION BY COMPUTER -- CRIMINAL
3 PENALTY -- CIVIL CAUSE OF ACTION.

4 1. A person who knowingly makes available computer
5 software or provides access to any interactive computer
6 service that includes a capability to collect identifying
7 personal information about the user of the computer software
8 or interactive computer service and who discloses, directly or
9 via the computer software or interactive computer service,
10 such identifying personal information to any person other than
11 the user commits an aggravated misdemeanor unless clear notice
12 is given to the user during the initial execution, start-up,
13 installation, download, configuration, or operation of the
14 computer software or interactive computer service regarding
15 all of the following:

16 a. The capability of the software or service to transmit
17 or disclose identifying personal information to persons other
18 than the user.

19 b. The identifying personal information subject to
20 collection and the name and address of each person with whom
21 such computer software or interactive computer service will
22 communicate other than the user.

23 c. Instructions on how to disable such capability to
24 transmit information to persons other than the user without
25 affecting the performance or operation of the computer
26 software or computer service.

27 2. The county attorney or an aggrieved person may
28 institute civil proceedings against any person in district
29 court seeking relief from conduct constituting a violation of
30 this section or to prevent, restrain, or remedy such a
31 violation.

32 3. This section shall not apply to persons making
33 available computer software or interactive computer service
34 that is reasonably needed to do any of the following:

35 a. Determine whether or not the user is a licensed or

1 authorized user of the software.

2 b. Provide technical support for the use of such software
3 or computer service upon request of the user.

4 c. For any legitimate law enforcement purpose as
5 authorized by applicable federal, state, or local law.

6 d. To enable an employer to monitor employee computer
7 usage while such employee is within the scope of any
8 employment as authorized by applicable federal, state, or
9 local law.

10 4. As used in this section, the following definitions
11 shall apply:

12 a. "Identifying personal information" means information
13 that personally identifies a user of computer software or
14 interactive computer service, including but not limited to any
15 of the following:

16 (1) Name.

17 (2) Address, including the street name or name of city or
18 town.

19 (3) The electronic mail address of the user.

20 (4) Telephone number.

21 (5) Social security number.

22 (6) Credit card number, expiration date, or other personal
23 identification number, password, or access code for the credit
24 card.

25 (7) Birth date, birth certificate identification number,
26 or place of birth.

27 (8) Any other information identifying an individual.

28 b. "Interactive computer service" means an information
29 service or system that provides computer software or enables
30 computer access to a computer service or network, including
31 specifically a service or system that provides access to the
32 internet or to software services on the internet, and such
33 systems operated or services offered by a library or an
34 educational institution.

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EXPLANATION

1 This bill establishes a criminal offense of unauthorized
2 collection and disclosure of personal information by computer,
3 and provides for a civil cause of action.

4 A person commits the crime of unauthorized collection and
5 disclosure of personal information by computer by making
6 available or providing access to computer software or an
7 interactive computer service that collects identifying
8 personal information and discloses such identifying personal
9 information to persons other than the user without first
10 giving the user notice of the following: the capability of
11 the software or service to transmit or disclose identifying
12 personal information, the information subject to collection
13 and the name and address of the person to whom the information
14 is disclosed, and instructions on how to disable the
15 capability to collect and transmit information to persons
16 other than the user. A violation is an aggravated
17 misdemeanor. An aggravated misdemeanor is punishable by
18 confinement for no more than two years and a fine of at least
19 \$500 but not more than \$5,000.

20 The bill provides the county attorney or other aggrieved
21 person with the ability to file a civil cause of action for
22 relief from conduct constituting the crime of the unauthorized
23 collection and disclosure of personal information by computer
24 established under the bill.

25 The crime of unauthorized collection and disclosure of
26 personal information by computer does not apply to persons
27 making available computer software that is reasonably needed
28 to determine whether or not the user is an authorized user of
29 the software, persons providing technical support for the
30 software upon request of the user, for any legitimate law
31 enforcement purpose authorized by law, and employers
32 monitoring computer usage of their employees as authorized by
33 applicable law.

34 The bill provides definitions of "identifying personal
35 information" and "interactive computer service".