

FILED MAR 3 2005

SENATE FILE 270
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1206)

Passed Senate, Date 3-9-05 Passed House, Date 3-30-05
Vote: Ayes 48 Nays 0 Vote: Ayes 98 Nays 0
Approved 4-6-05

A BILL FOR

1 An Act relating to identity theft including criminal violations
2 and damages recoverable in a civil action, providing for
3 forfeiture of property and for certain rights of financial
4 institutions, and providing for civil remedies.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SE 270

1 Section 1. NEW SECTION. 614.4A IDENTITY THEFT.

2 In actions for relief on the ground of identity theft under
3 section 714.16B, the cause of action shall not be deemed to
4 have accrued until the identity theft complained of is
5 discovered by the party aggrieved.

6 Sec. 2. Section 714.16B, Code 2005, is amended to read as
7 follows:

8 714.16B IDENTITY THEFT -- CIVIL CAUSE OF ACTION.

9 In addition to any other remedies provided by law, a person
10 as defined under section 714.16, subsection 1, suffering a
11 pecuniary loss as a result of an identity theft by another
12 person under section 715A.8, or a financial institution on
13 behalf of an account holder suffering a pecuniary loss as a
14 result of an identity theft by another person under section
15 715A.8, may bring an action against such other person to
16 recover all of the following:

17 1. One Five thousand dollars or three times the actual
18 damages, whichever is greater.

19 2. Reasonable costs incurred due to the violation of
20 section 715A.8, including all of the following:

21 a. Costs for repairing the victim's credit history or
22 credit rating.

23 b. Costs incurred for bringing a civil or administrative
24 proceeding to satisfy a debt, lien, judgment, or other
25 obligation of the victim.

26 c. Punitive damages, attorney fees, and court costs.

27 For purposes of this section, "financial institution" means
28 the same as defined in section 527.2, and includes an insurer
29 organized under Title XIII, subtitle 1, of this Code, or under
30 the laws of any other state or the United States.

31 Sec. 3. Section 715A.8, subsection 1, Code 2005, is
32 amended to read as follows:

33 1. a. For purposes of this section, "identification
34 information" means includes, but is not limited to, the name,
35 address, date of birth, telephone number, driver's license

1 number, nonoperator's identification card number, social
2 security number, student identification number, military
3 identification number, alien identification or citizenship
4 status number, employer identification number, signature,
5 electronic mail signature, electronic identifier or screen
6 name, biometric identifier, genetic identification
7 information, access device, logo, symbol, trademark, place of
8 employment, employee identification number, parent's legal
9 surname prior to marriage, demand deposit account number,
10 savings or checking account number, or credit card number of a
11 person.

12 b. For purposes of this section, "financial institution"
13 means the same as defined in section 527.2, and includes an
14 insurer organized under Title XIII, subtitle 1, of this Code,
15 or under the laws of any other state or the United States.

16 Sec. 4. Section 715A.8, Code 2005, is amended by adding
17 the following new subsections:

18 NEW SUBSECTION. 5. Violations of this section shall be
19 prosecuted in any of the following venues:

20 a. In the county in which the violation occurred.

21 b. If the violation was committed in more than one county,
22 or if the elements of the offense were committed in more than
23 one county, then in any county where any violation occurred or
24 where an element of the offense occurred.

25 c. In the county where the victim resides.

26 d. In the county where the property that was fraudulently
27 used or attempted to be used was located at the time of the
28 violation.

29 NEW SUBSECTION. 6. Any real or personal property obtained
30 by a person as a result of a violation of this section,
31 including but not limited to any money, interest, security,
32 claim, contractual right, or financial instrument that is in
33 the possession of the person, shall be subject to seizure and
34 forfeiture pursuant to chapter 809A. A victim injured by a
35 violation of this section, or a financial institution that has

1 indemnified a victim injured by a violation of this section,
2 may file a claim as an interest holder pursuant to section
3 809A.11 for payment of damages suffered by the victim
4 including costs of recovery and reasonable attorney fees.

5 NEW SUBSECTION. 7. A financial institution may file a
6 complaint regarding a violation of this section on behalf of a
7 victim and shall have the same rights and privileges as the
8 victim if the financial institution has indemnified the victim
9 for such violations.

10 NEW SUBSECTION. 8. Upon the request of a victim, a peace
11 officer in any jurisdiction described in subsection 5 shall
12 take a report regarding an alleged violation of this section
13 and shall provide a copy of the report to the victim. The
14 report may also be provided to any other law enforcement
15 agency in any of the jurisdictions described in subsection 5.

16 EXPLANATION

17 This bill relates to the offense of identity theft,
18 including providing for civil causes of action, and the rights
19 of financial institutions regarding violations.

20 The bill expands the definition of "identification
21 information" to include a student or military identification
22 number, alien or citizenship number, employer identification
23 number, signature or electronic signature, electronic
24 identifier or screen name, biometric identifier, genetic
25 identification information, access device, logo, symbol, or
26 trademark. The bill provides a definition of "financial
27 institution".

28 The bill describes the appropriate venues in which
29 violations may be prosecuted. The bill provides that any
30 property obtained by a person as a result of identity theft
31 that is in the possession of the person is subject to seizure
32 and forfeiture pursuant to Code chapter 809A. Either a
33 victim, or a financial institution that has indemnified a
34 victim, may act as an interest holder and file a claim for
35 forfeited property for the payment of damages suffered by the

1 victim due to the violation.

2 The bill provides that a financial institution may file a
3 complaint of identity theft on behalf of a victim. A peace
4 officer shall take a complaint in a report of identity theft
5 at the request of a victim and provide a copy of the report to
6 the victim. The peace officer may also provide copies of the
7 report to a law enforcement agency in another jurisdiction
8 with proper venue.

9 The bill provides that a financial institution may file a
10 civil action on behalf of an account holder who has suffered a
11 loss of money due to identity theft. The civil action filed
12 by or on behalf of a victim may seek certain damages described
13 by the bill. The bill increases the amount of statutory
14 damages available from \$1,000 or three times the actual
15 damages to \$5,000 or three times the actual damages, and
16 provides for the recovery of costs for the repair of a
17 victim's credit history, costs incurred for bringing an action
18 to satisfy an obligation of the victim, and for punitive
19 damages. Current law already provides for recovery of
20 attorney fees and court costs.

21 The bill provides that for the purpose of determining the
22 statute of limitations period for civil actions to recover
23 losses incurred due to identity theft, the limitations period
24 shall not begin to run until the victim discovers the identity
25 theft.

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Kettering co-chair
Rielly co-chair
Zawn
Beall

Succeeded By
CF/HF 270

Commerce

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON COMMERCE BILL
BY CO-CHAIRPERSONS
BEHN and WARNSTADT)

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

A BILL FOR

1 An Act relating to identity theft including criminal violations
2 and damages recoverable in a civil action, providing for
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1 Section 1. NEW SECTION. 614.4A IDENTITY THEFT.

2 In actions for relief on the ground of identity theft under
3 section 714.16B, the cause of action shall not be deemed to
4 have accrued until the identity theft complained of is
5 discovered by the party aggrieved.

6 Sec. 2. Section 714.16B, Code 2005, is amended to read as
7 follows:

8 714.16B IDENTITY THEFT -- CIVIL CAUSE OF ACTION.

9 In addition to any other remedies provided by law, a person
10 as defined under section 714.16, subsection 1, suffering a
11 pecuniary loss as a result of an identity theft by another
12 person under section 715A.8, or a financial institution as
13 defined in section 422.61, subsection 1, on behalf of an
14 account holder suffering a pecuniary loss as a result of an
15 identity theft by another person under section 715A.8, may
16 bring an action against such other person to recover all of
17 the following:

18 1. One Five thousand dollars or three times the actual
19 damages, whichever is greater.

20 2. Reasonable costs incurred due to the violation of
21 section 715A.8, including all of the following:

22 a. Costs for repairing the victim's credit history or
23 credit rating.

24 b. Costs incurred for bringing a civil or administrative
25 proceeding to satisfy a debt, lien, judgment, or other
26 obligation of the victim.

27 c. Punitive damages, attorney fees, and court costs.

28 Sec. 3. Section 715A.8, subsection 1, Code 2005, is
29 amended to read as follows:

30 1. a. For purposes of this section, "identification
31 information" means includes, but is not limited to, the name,
32 address, date of birth, telephone number, driver's license
33 number, nonoperator's identification card number, social
34 security number, student identification number, military
35 identification number, alien identification or citizenship

1 status number, employer identification number, signature,
2 electronic mail signature, electronic identifier or screen
3 name, biometric identifier, genetic identification
4 information, access device, logo, symbol, trademark, place of
5 employment, employee identification number, parent's legal
6 surname prior to marriage, demand deposit account number,
7 savings or checking account number, or credit card number of a
8 person.

9 b. For purposes of this section, "financial institution"
10 means the same as defined in section 422.61.

11 Sec. 4. Section 715A.8, Code 2005, is amended by adding
12 the following new subsections:

13 NEW SUBSECTION. 5. Violations of this section shall be
14 prosecuted in any of the following venues:

15 a. In the county in which the violation occurred.

16 b. If the violation was committed in more than one county,
17 or if the elements of the offense were committed in more than
18 one county, then in any county where any violation occurred or
19 where an element of the offense occurred.

20 c. In the county where the victim resides.

21 d. In the county where the property that was fraudulently
22 used or attempted to be used was located at the time of the
23 violation.

24 NEW SUBSECTION. 6. Any real or personal property obtained
25 by a person as a result of a violation of this section,
26 including but not limited to any money, interest, security,
27 claim, contractual right, or financial instrument that is in
28 the possession of the person, shall be subject to seizure and
29 forfeiture pursuant to chapter 809A. A victim injured by a
30 violation of this section, or a financial institution that has
31 indemnified a victim injured by a violation of this section,
32 may file a claim as an interest holder pursuant to section
33 809A.11 for payment of damages suffered by the victim
34 including costs of recovery and reasonable attorney fees.

35 NEW SUBSECTION. 7. A financial institution may file a

1 complaint regarding a violation of this section on behalf of a
2 victim and shall have the same rights and privileges as the
3 victim if the financial institution has indemnified the victim
4 for such violations.

5 NEW SUBSECTION. 8. Upon the request of a victim, a peace
6 officer in any jurisdiction described in subsection 5 shall
7 take a report regarding an alleged violation of this section
8 and shall provide a copy of the report to the victim. The
9 report may also be provided to any other law enforcement
10 agency in any of the jurisdictions described in subsection 5.

11 EXPLANATION

12 This bill relates to the offense of identity theft,
13 including providing for civil causes of action, and the rights
14 of financial institutions regarding violations.

15 The bill expands the definition of "identification
16 information" to include a student or military identification
17 number, alien or citizenship number, employer identification
18 number, signature or electronic signature, electronic
19 identifier or screen name, biometric identifier, genetic
20 identification information, access device, logo, symbol, or
21 trademark. The bill provides a definition of "financial
22 institution".

23 The bill describes the appropriate venues in which
24 violations may be prosecuted. The bill provides that any
25 property obtained by a person as a result of identity theft
26 that is in the possession of the person is subject to seizure
27 and forfeiture pursuant to Code chapter 809A. Either a
28 victim, or a financial institution that has indemnified a
29 victim, may act as an interest holder and file a claim for
30 forfeited property for the payment of damages suffered by the
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33 complaint of identity theft on behalf of a victim. A peace
34 officer shall take a complaint in a report of identity theft
35 at the request of a victim and provide a copy of the report to

1 the victim. The peace officer may also provide copies of the
2 report to a law enforcement agency in another jurisdiction
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4 The bill provides that a financial institution may file a
5 civil action on behalf of an account holder who has suffered a
6 loss of money due to identity theft. The civil action filed
7 by or on behalf of a victim may seek certain damages described
8 by the bill. The bill increases the amount of statutory
9 damages available from \$1,000 or three times the actual
10 damages to \$5,000 or three times the actual damages, and
11 provides for the recovery of costs for the repair of a
12 victim's credit history, costs incurred for bringing an action
13 to satisfy an obligation of the victim, and for punitive
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15 attorney fees and court costs.

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17 statute of limitations period for civil actions to recover
18 losses incurred due to identity theft, the limitations period
19 shall not begin to run until the victim discovers the identity
20 theft.

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SENATE FILE 270

AN ACT

RELATING TO IDENTITY THEFT INCLUDING CRIMINAL VIOLATIONS AND DAMAGES RECOVERABLE IN A CIVIL ACTION, PROVIDING FOR FORFEITURE OF PROPERTY AND FOR CERTAIN RIGHTS OF FINANCIAL INSTITUTIONS, AND PROVIDING FOR CIVIL REMEDIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 614.4A IDENTITY THEFT.

In actions for relief on the ground of identity theft under section 714.16B, the cause of action shall not be deemed to have accrued until the identity theft complained of is discovered by the party aggrieved.

Sec. 2. Section 714.16B, Code 2005, is amended to read as follows:

714.16B IDENTITY THEFT -- CIVIL CAUSE OF ACTION.

In addition to any other remedies provided by law, a person as defined under section 714.16, subsection 1, suffering a pecuniary loss as a result of an identity theft by another person under section 715A.8, or a financial institution on behalf of an account holder suffering a pecuniary loss as a

result of an identity theft by another person under section 715A.8, may bring an action against such other person to recover all of the following:

1. One Five thousand dollars or three times the actual damages, whichever is greater.

2. Reasonable costs incurred due to the violation of section 715A.8, including all of the following:

a. Costs for repairing the victim's credit history or credit rating.

b. Costs incurred for bringing a civil or administrative proceeding to satisfy a debt, lien, judgment, or other obligation of the victim.

c. Punitive damages, attorney fees, and court costs.

For purposes of this section, "financial institution" means the same as defined in section 527.2, and includes an insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

Sec. 3. Section 715A.8, subsection 1, Code 2005, is amended to read as follows:

1. a. For purposes of this section, "identification information" means includes, but is not limited to, the name, address, date of birth, telephone number, driver's license number, nonoperator's identification card number, social security number, student identification number, military identification number, alien identification or citizenship status number, employer identification number, signature, electronic mail signature, electronic identifier or screen name, biometric identifier, genetic identification information, access device, logo, symbol, trademark, place of employment, employee identification number, parent's legal surname prior to marriage, demand deposit account number, savings or checking account number, or credit card number of a person.

b. For purposes of this section, "financial institution" means the same as defined in section 527.2, and includes an

insurer organized under Title XIII, subtitle 1, of this Code, or under the laws of any other state or the United States.

Sec. 4. Section 715A.8, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 5. Violations of this section shall be prosecuted in any of the following venues:

- a. In the county in which the violation occurred.
- b. If the violation was committed in more than one county, or if the elements of the offense were committed in more than one county, then in any county where any violation occurred or where an element of the offense occurred.
- c. In the county where the victim resides.
- d. In the county where the property that was fraudulently used or attempted to be used was located at the time of the violation.

NEW SUBSECTION. 6. Any real or personal property obtained by a person as a result of a violation of this section, including but not limited to any money, interest, security, claim, contractual right, or financial instrument that is in the possession of the person, shall be subject to seizure and forfeiture pursuant to chapter 809A. A victim injured by a violation of this section, or a financial institution that has indemnified a victim injured by a violation of this section, may file a claim as an interest holder pursuant to section 809A.11 for payment of damages suffered by the victim including costs of recovery and reasonable attorney fees.

NEW SUBSECTION. 7. A financial institution may file a complaint regarding a violation of this section on behalf of a victim and shall have the same rights and privileges as the victim if the financial institution has indemnified the victim for such violations.

NEW SUBSECTION. 8. Upon the request of a victim, a peace officer in any jurisdiction described in subsection 5 shall take a report regarding an alleged violation of this section and shall provide a copy of the report to the victim. The

report may also be provided to any other law enforcement agency in any of the jurisdictions described in subsection 5.

JOHN P. KIBBIE
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 270, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 4/6, 2005

THOMAS J. VILSACK
Governor