



## Kansas Bureau of Investigation

Kirk Thompson  
*Director*

Derek Schmidt  
*Attorney General*

Testimony of Kyle Smith,  
Assistant Attorney General/Deputy Director  
In support of SB 47  
Before the Senate Judiciary Committee  
March 6, 2013

Chairman King and Members of the Committee,

On behalf of Attorney General Derek Schmidt I appear today in support of SB 47, a bill in our constant need to update our statutes to deal with rapidly evolving technology.

SB 47 basically amends our computer crime statute by adding social network websites to the computer crime restrictions on disclosing passwords and improper accessing, raised the penalties for major, over \$100,000 in damages cases. This amendment clarifies that improperly hacking or disclosing the administrative access to a social network identity can be just as damaging and should be equally punished as improperly hacking or disclosing a computer password.

The bill also amends the identity theft and fraud statute to add to the ways that crime can be committed by adding "misrepresent that person in order to subject that person to economic or bodily harm." instead of just defrauding. The evolving use of usurped social media identities to cause harm, other than economic, has been well documented in the media.

We would propose an amendment that would enhance enforcement without any prison impact or increase in costs. Identity theft and identity fraud closely shadow traditional consumer fraud offenses. Unfortunately, the nature of those crimes is that they frequently, indeed normally, involve several jurisdictions; the information may be obtained in a different jurisdiction than the residence of the victim, and items are purchased in several other, frequently on the internet. The alternative or additional approach of filing such activity as a consumer fraud violation would allow for civil remedies, including injunctions, to be used to shut down such activities and punish such operators. As such we request the committee consider adding the balloon amendment below that we developed with the revisor's office, to authorize civil consumer protection penalties, in addition to the criminal provisions already in the law and bill.

I would be happy to stand for questions.

AN ACT concerning ~~crimes, criminal procedure and punishment~~ **unlawful acts**; relating to identity theft **and identity fraud**; relating to unlawful acts concerning computers; **consumer protection**; amending K.S.A. 2012 Supp. 21-5839 and 21-6107 and repealing the existing sections.

***New Section 1. (a) The conduct prohibited by K.S.A. 2012 Supp. 21-6107, and amendments thereto, constitutes an unconscionable at or practice in violation of K.S.A. 50-627, and amendments thereto, and any person who engages in such conduct shall be subject to the remedies and penalties provided by the Kansas consumer protection act.***

***(b) For the purposes of the remedies and penalties provided by the Kansas consumer protection act:***

***(1) The person committing the conduct prohibited by K.S.A. 2012 Supp. 21-6107, and amendments thereto, shall be deemed the supplier, and the person who is the victim of such conduct shall be deemed the consumer; and***

***(2) proof of a consumer transaction shall not be required.***

***(c) This section shall be part of and supplemental to the Kansas consumer protection act***