

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2093

By Committee on Vision 2020

1-24

1 AN ACT concerning ~~crimes, criminal procedure and punishment~~ **unlawful**
2 **acts**; relating to identity theft **and identity fraud**; ~~relating to~~ unlawful
3 acts concerning computers; **consumer protection**; amending K.S.A.
4 2012 Supp. 21-5839 and 21-6107 and repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 **New Section 1. (a) The conduct prohibited by K.S.A. 2012 Supp.**
8 **21-6107, and amendments thereto, constitutes an unconscionable at or**
9 **practice in violation of K.S.A. 50-627, and amendments thereto, and**
10 **any person who engages in such conduct shall be subject to the**
11 **remedies and penalties provided by the Kansas consumer protection**
12 **act.**

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

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

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

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

22 ~~Section 1. Sec. 2.~~ K.S.A. 2012 Supp. 21-5839 is hereby amended to
23 read as follows: 21-5839. (a) It is unlawful for any person to:

24 (1) Knowingly and without authorization access and damage, modify,
25 alter, destroy, copy, disclose or take possession of a computer, computer
26 system, computer network or any other property;

27 (2) use a computer, computer system, computer network or any other
28 property for the purpose of devising or executing a scheme or artifice with
29 the intent to defraud or to obtain money, property, services or any other
30 thing of value by means of false or fraudulent pretense or representation;

31 (3) knowingly exceed the limits of authorization and damage, modify,
32 alter, destroy, copy, disclose or take possession of a computer, computer
33 system, computer network or any other property;

34 (4) knowingly and without authorization, disclose a number, code,
35 password or other means of access to a computer ~~or~~, computer network,
36 *social networking website or personal electronic content; or*

1 (5) knowingly and without authorization, access or attempt to access
2 any computer, computer system, *social networking website*, computer
3 network or computer software, program, documentation, data or property
4 contained in any computer, computer system or computer network.

5 (b) (1) *Except as provided in (b)(2)*, violation of subsections (a)(1),
6 (a)(2) or (a)(3) is a severity level 8, nonperson felony.

7 (2) *Violation of subsections (a)(1), (a)(2) or (a)(3) is a severity level*
8 *5, nonperson felony if the monetary loss to the victim or victims is more*
9 *than \$100,000.*

10 ~~(2)~~ (3) Violation of subsections (a)(4) or (a)(5) is a class A nonperson
11 misdemeanor.

12 (c) In any prosecution for a violation of subsections (a)(1), (a)(2) or
13 (a)(3), it shall be a defense that the property or services were appropriated
14 openly and avowedly under a claim of title made in good faith.

15 (d) As used in this section:

16 (1) "Access" means to instruct, communicate with, store data in,
17 retrieve data from or otherwise make use of any resources of a computer,
18 computer system or computer network;

19 (2) "computer" means an electronic device which performs work
20 using programmed instruction and which has one or more of the
21 capabilities of storage, logic, arithmetic or communication and includes all
22 input, output, processing, storage, software or communication facilities
23 which are connected or related to such a device in a system or network;

24 (3) "computer network" means the interconnection of communication
25 lines, including microwave or other means of electronic communication,
26 with a computer through remote terminals, or a complex consisting of two
27 or more interconnected computers;

28 (4) "computer program" means a series of instructions or statements
29 in a form acceptable to a computer which permits the functioning of a
30 computer system in a manner designed to provide appropriate products
31 from such computer system;

32 (5) "computer software" means computer programs, procedures and
33 associated documentation concerned with the operation of a computer
34 system;

35 (6) "computer system" means a set of related computer equipment or
36 devices and computer software which may be connected or unconnected;

37 (7) "financial instrument" means any check, draft, money order,
38 certificate of deposit, letter of credit, bill of exchange, credit card, debit
39 card or marketable security;

40 (8) *"personal electronic content" means the electronically stored*
41 *content of an individual including, but not limited to, pictures, videos,*
42 *emails and other data files;*

43 ~~(8)~~ (9) "property" includes, but is not limited to, financial

1 instruments, information, electronically produced or stored data,
2 supporting documentation and computer software in either machine or
3 human readable form;

4 ~~(9)~~ (10) "services" includes, but is not limited to, computer time, data
5 processing and storage functions and other uses of a computer, computer
6 system or computer network to perform useful work; ~~and~~

7 (11) "*social networking website*" means a *privacy-protected internet*
8 *website which allows individuals to construct a public or semi-public*
9 *profile within a bounded system created by the service, create a list of*
10 *other users with whom the individual shares a connection within the*
11 *system and view and navigate the list of users with whom the individual*
12 *shares a connection and those lists of users made by others within the*
13 *system; and*

14 ~~(10)~~ (12) "supporting documentation" includes, but is not limited to,
15 all documentation used in the construction, classification, implementation,
16 use or modification of computer software, computer programs or data.

17 Sec. ~~2~~ 3. K.S.A. 2012 Supp. 21-6107 is hereby amended to read as
18 follows: 21-6107. (a) Identity theft is obtaining, possessing, transferring,
19 using, selling or purchasing any personal identifying information, or
20 document containing the same, belonging to or issued to another person,
21 with the intent to:

22 (1) Defraud that person, or anyone else, in order to receive any
23 benefit; or

24 (2) *misrepresent that person in order to subject that person to*
25 *economic or bodily harm.*

26 (b) Identity fraud is:

27 (1) Using or supplying information the person knows to be false in
28 order to obtain a document containing any personal identifying
29 information; or

30 (2) altering, amending, counterfeiting, making, manufacturing or
31 otherwise replicating any document containing personal identifying
32 information with the intent to deceive;

33 (c) (1) Identity theft is a:

34 (A) Severity level 8, nonperson felony, except as provided in
35 subsection (c)(1)(B); and

36 (B) severity level 5, nonperson felony if the monetary loss to the
37 victim or victims is more than \$100,000.

38 (2) Identity fraud is a severity level 8, nonperson felony.

39 (d) It is not a defense that the person did not know that such personal
40 identifying information belongs to another person, or that the person to
41 whom such personal identifying information belongs or was issued is
42 deceased.

43 (e) As used in this section:

1 (1) *"Personal electronic content" means the electronically stored*
2 *content of an individual including, but not limited to, pictures, videos,*
3 *emails and other data files;*

4 (2) *"personal identifying information" includes, but is not limited to,*
5 *the following:*

6 ~~(1)~~ (A) Name;

7 ~~(2)~~ (B) birth date;

8 ~~(3)~~ (C) address;

9 ~~(4)~~ (D) telephone number;

10 ~~(5)~~ (E) driver's license number or card or nondriver's identification
11 number or card;

12 ~~(6)~~ (F) social security number or card;

13 ~~(7)~~ (G) place of employment;

14 ~~(8)~~ (H) employee identification numbers or other personal
15 identification numbers or cards;

16 ~~(9)~~ (I) mother's maiden name;

17 ~~(10)~~ (J) birth, death or marriage certificates;

18 ~~(11)~~ (K) electronic identification numbers;

19 ~~(12)~~ (L) electronic signatures; ~~and~~

20 ~~(13)~~ (M) any financial number, or password that can be used to access
21 a person's financial resources, including, but not limited to, checking or
22 savings accounts, credit or debit card information, demand deposit or
23 medical information; *and*

24 (N) *passwords, usernames or other log-in information that can be*
25 *used to access a person's personal electronic content, including, but not*
26 *limited to, content stored on a social networking website; and*

27 (3) *"social networking website" means a privacy-protected internet*
28 *website which allows individuals to construct a public or semi-public*
29 *profile within a bounded system created by the service, create a list of*
30 *other users with whom the individual shares a connection within the*
31 *system and view and navigate the list of users with whom the individual*
32 *shares a connection and those lists of users made by others within the*
33 *system.*

34 Sec.-3: 4. K.S.A. 2012 Supp. 21-5839 and 21-6107 are hereby
35 repealed.

36 Sec.-4: 5. This act shall take effect and be in force from and after its
37 publication in the statute book.