

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 {and shall be known and may be cited as the**
22 **Wayne Owen law}.**

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

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

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

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

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

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

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

10 (2) *Violation of subsections (a)(1), (a)(2) or (a)(3) is a severity level*
11 *5, nonperson felony if the monetary loss to the victim or victims is more*
12 *than \$100,000.*

13 ~~(2)~~ (3) Violation of subsections (a)(4) or (a)(5) is a class A nonperson
14 misdemeanor.

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

18 (d) As used in this section:

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

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

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

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

35 (5) "computer software" means computer programs, procedures and
36 associated documentation concerned with the operation of a computer
37 system;

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

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

43 (8) *"personal electronic content" means the electronically stored*

1 *content of an individual including, but not limited to, pictures, videos,*
2 *emails and other data files;*

3 ~~(8)~~ (9) "property" includes, but is not limited to, financial
4 instruments, information, electronically produced or stored data,
5 supporting documentation and computer software in either machine or
6 human readable form;

7 ~~(9)~~ (10) "services" includes, but is not limited to, computer time, data
8 processing and storage functions and other uses of a computer, computer
9 system or computer network to perform useful work; ~~and~~

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

17 ~~(10)~~ (12) "supporting documentation" includes, but is not limited to,
18 all documentation used in the construction, classification, implementation,
19 use or modification of computer software, computer programs or data.

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

25 (1) Defraud that person, or anyone else, in order to receive any
26 benefit; *or*

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

29 (b) Identity fraud is:

30 (1) Using or supplying information the person knows to be false in
31 order to obtain a document containing any personal identifying
32 information; *or*

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

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

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

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

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

42 (d) It is not a defense that the person did not know that such personal
43 identifying information belongs to another person, or that the person to

1 whom such personal identifying information belongs or was issued is
2 deceased.

3 (e) As used in this section:

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

7 (2) "personal identifying information" includes, but is not limited to,
8 the following:

9 ~~(1)~~ (A) Name;

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

11 ~~(3)~~ (C) address;

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

13 ~~(5)~~ (E) driver's license number or card or nondriver's identification
14 number or card;

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

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

17 ~~(8)~~ (H) employee identification numbers or other personal
18 identification numbers or cards;

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

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

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

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

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

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

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

37 ~~Sec.-3:~~ 4. K.S.A. 2012 Supp. 21-5839 and 21-6107 are hereby
38 repealed.

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