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SENATE BILL 6565

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State of Washington

61st Legislature

2010 Regular Session

By Senator Stevens

Read first time 01/18/10. Referred to Committee on Judiciary.

1 AN ACT Relating to crimes involving the identity of an entity or  
2 person; amending RCW 9.35.020; reenacting and amending RCW 9.94A.515;  
3 adding a new section to chapter 9A.40 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 9.35.020 and 2008 c 207 s 4 are each amended to read  
6 as follows:

7 (1) No person may knowingly obtain, possess, use, or transfer a  
8 means of identification or financial information of an entity or  
9 another person, living ((or)), dead, or fictitious, with the intent to  
10 commit, or to aid or abet, any crime, whether or not the entity or  
11 person actually suffers any economic loss as a result of the offense,  
12 or with the intent to obtain or continue employment.

13 (2)(a) A person commits knowingly accepting the identity of another  
14 person if the person, in hiring an employee, knowingly:

15 (i) Accepts any personal identifying information of another person  
16 from an individual and knows that the individual is not the actual  
17 person identified by that information; and

18 (ii) Uses that identity information for the purpose of determining  
19 whether the individual who presented that identity information has the

1 legal right or authorization under federal law to work in the United  
2 States as described and determined under the processes and procedures  
3 under 8 U.S.C. Sec. 1324a.

4 (b) On the request of an entity or person, a peace officer in any  
5 jurisdiction in which an element of an offense under this section is  
6 committed, a result of an offense under this section occurs, or the  
7 entity or person whose identity is taken or accepted is located or  
8 resides shall take a report. The peace officer may provide a copy of  
9 the report to any other law enforcement agency that is located in a  
10 jurisdiction in which a violation of this subsection occurred.

11 (c) If a defendant is alleged to have committed multiple violations  
12 of this subsection within the same county, the prosecutor may file a  
13 complaint charging all of the violations and any related charges that  
14 have not been previously filed in any city or town in which a violation  
15 is alleged to have occurred. If a defendant is alleged to have  
16 committed multiple violations of this subsection within the state, the  
17 prosecutor may file a complaint charging all of the violations and any  
18 related charges that have not been previously filed in any county in  
19 which a violation is alleged to have occurred.

20 (3) Violation of this section when the accused or an accomplice  
21 violates subsection (1) of this section and obtains credit, money,  
22 goods, services, or anything else of value in excess of one thousand  
23 five hundred dollars in value shall constitute identity theft in the  
24 first degree. Identity theft in the first degree is a class B felony  
25 punishable according to chapter 9A.20 RCW.

26 ~~((+3))~~ (4) A person is guilty of identity theft in the second  
27 degree when he or she violates subsection (1) of this section under  
28 circumstances not amounting to identity theft in the first degree.  
29 Identity theft in the second degree is a class C felony punishable  
30 according to chapter 9A.20 RCW.

31 ~~((+4))~~ (5) Each crime prosecuted under this section shall be  
32 punished separately under chapter 9.94A RCW, unless it is the same  
33 criminal conduct as any other crime, under RCW 9.94A.589.

34 ~~((+5))~~ (6) Whenever any series of transactions involving a single  
35 entity or person's means of identification or financial information  
36 which constitute identity theft would, when considered separately,  
37 constitute identity theft in the second degree because of value, and  
38 the series of transactions are a part of a common scheme or plan, then

1 the transactions may be aggregated in one count and the sum of the  
2 value of all of the transactions shall be the value considered in  
3 determining the degree of identity theft involved.

4 ~~((+6))~~ (7) Every person who, in the commission of identity theft,  
5 shall commit any other crime may be punished therefor as well as for  
6 the identity theft, and may be prosecuted for each crime separately.

7 ~~((+7))~~ (8) A person who violates this section is liable for civil  
8 damages of one thousand dollars or actual damages, whichever is  
9 greater, including costs to repair the victim's credit record, and  
10 reasonable attorneys' fees as determined by the court.

11 ~~((+8))~~ (9) In a proceeding under this section, the crime will be  
12 considered to have been committed in any locality where the entity or  
13 person whose means of identification or financial information was  
14 appropriated is located or resides, or in which any part of the offense  
15 took place, regardless of whether the defendant was ever actually in  
16 that locality.

17 ~~((+9))~~ (10) The provisions of this section do not apply to any  
18 person who obtains another person's driver's license or other form of  
19 identification for the sole purpose of misrepresenting his or her age.

20 ~~((+10))~~ (11) In a proceeding under this section in which ~~((a))~~ an  
21 entity or person's means of identification or financial information was  
22 used without that entity or person's authorization, and when there has  
23 been a conviction, the sentencing court may issue such orders as are  
24 necessary to correct a public record that contains false information  
25 resulting from a violation of this section.

26 NEW SECTION. Sec. 2. A new section is added to chapter 9A.40 RCW  
27 to read as follows:

28 (1) A person commits trafficking in the identity of another entity  
29 or person if the person knowingly sells, transfers, or transmits any  
30 personal identifying information of another entity or person, including  
31 a real or fictitious entity or person, without the consent of the other  
32 entity or person for any unlawful purpose or to cause loss to the  
33 entity or person, whether or not the other entity or person actually  
34 suffers any economic loss, or allowing another entity or person to  
35 obtain or continue employment.

36 (2) Trafficking in the identity of another entity or person is a  
37 class B felony.



1 Malicious explosion 3 (RCW  
2 70.74.280(3))  
3 Sexually Violent Predator Escape  
4 (RCW 9A.76.115)  
5 IX Abandonment of Dependent Person 1  
6 (RCW 9A.42.060)  
7 Assault of a Child 2 (RCW 9A.36.130)  
8 Explosive devices prohibited (RCW  
9 70.74.180)  
10 Hit and Run--Death (RCW  
11 46.52.020(4)(a))  
12 Homicide by Watercraft, by being  
13 under the influence of intoxicating  
14 liquor or any drug (RCW  
15 79A.60.050)  
16 Inciting Criminal Profiteering (RCW  
17 9A.82.060(1)(b))  
18 Malicious placement of an explosive 2  
19 (RCW 70.74.270(2))  
20 Robbery 1 (RCW 9A.56.200)  
21 Sexual Exploitation (RCW 9.68A.040)  
22 Vehicular Homicide, by being under  
23 the influence of intoxicating liquor  
24 or any drug (RCW 46.61.520)  
25 VIII Arson 1 (RCW 9A.48.020)  
26 Homicide by Watercraft, by the  
27 operation of any vessel in a  
28 reckless manner (RCW  
29 79A.60.050)  
30 Manslaughter 2 (RCW 9A.32.070)  
31 Promoting Commercial Sexual Abuse  
32 of a Minor (RCW 9.68A.101)  
33 Promoting Prostitution 1 (RCW  
34 9A.88.070)  
35 Theft of Ammonia (RCW 69.55.010)

1 Vehicular Homicide, by the operation  
2 of any vehicle in a reckless manner  
3 (RCW 46.61.520)

4 VII Burglary 1 (RCW 9A.52.020)  
5 Child Molestation 2 (RCW 9A.44.086)  
6 Civil Disorder Training (RCW  
7 9A.48.120)  
8 Dealing in depictions of minor engaged  
9 in sexually explicit conduct (RCW  
10 9.68A.050)  
11 Drive-by Shooting (RCW 9A.36.045)  
12 Homicide by Watercraft, by disregard  
13 for the safety of others (RCW  
14 79A.60.050)  
15 Indecent Liberties (without forcible  
16 compulsion) (RCW 9A.44.100(1)  
17 (b) and (c))  
18 Introducing Contraband 1 (RCW  
19 9A.76.140)  
20 Malicious placement of an explosive 3  
21 (RCW 70.74.270(3))  
22 Negligently Causing Death By Use of a  
23 Signal Preemption Device (RCW  
24 46.37.675)  
25 Sending, bringing into state depictions  
26 of minor engaged in sexually  
27 explicit conduct (RCW 9.68A.060)  
28 Unlawful Possession of a Firearm in  
29 the first degree (RCW 9.41.040(1))  
30 Use of a Machine Gun in Commission  
31 of a Felony (RCW 9.41.225)  
32 Vehicular Homicide, by disregard for  
33 the safety of others (RCW  
34 46.61.520)

35 VI Bail Jumping with Murder 1 (RCW  
36 9A.76.170(3)(a))  
37 Bribery (RCW 9A.68.010)

1 Incest 1 (RCW 9A.64.020(1))  
2 Intimidating a Judge (RCW 9A.72.160)  
3 Intimidating a Juror/Witness (RCW  
4 9A.72.110, 9A.72.130)  
5 Malicious placement of an imitation  
6 device 2 (RCW 70.74.272(1)(b))  
7 Possession of Depictions of a Minor  
8 Engaged in Sexually Explicit  
9 Conduct (RCW 9.68A.070)  
10 Rape of a Child 3 (RCW 9A.44.079)  
11 Theft of a Firearm (RCW 9A.56.300)  
12 Unlawful Storage of Ammonia (RCW  
13 69.55.020)  
14 V Abandonment of Dependent Person 2  
15 (RCW 9A.42.070)  
16 Advancing money or property for  
17 extortionate extension of credit  
18 (RCW 9A.82.030)  
19 Bail Jumping with class A Felony  
20 (RCW 9A.76.170(3)(b))  
21 Child Molestation 3 (RCW 9A.44.089)  
22 Criminal Mistreatment 2 (RCW  
23 9A.42.030)  
24 Custodial Sexual Misconduct 1 (RCW  
25 9A.44.160)  
26 Domestic Violence Court Order  
27 Violation (RCW 10.99.040,  
28 10.99.050, 26.09.300, 26.10.220,  
29 26.26.138, 26.50.110, 26.52.070,  
30 or 74.34.145)  
31 Driving While Under the Influence  
32 (RCW 46.61.502(6))  
33 Extortion 1 (RCW 9A.56.120)  
34 Extortionate Extension of Credit (RCW  
35 9A.82.020)

1 Extortionate Means to Collect  
2 Extensions of Credit (RCW  
3 9A.82.040)  
4 Incest 2 (RCW 9A.64.020(2))  
5 Kidnapping 2 (RCW 9A.40.030)  
6 Perjury 1 (RCW 9A.72.020)  
7 Persistent prison misbehavior (RCW  
8 9.94.070)  
9 Physical Control of a Vehicle While  
10 Under the Influence (RCW  
11 46.61.504(6))  
12 Possession of a Stolen Firearm (RCW  
13 9A.56.310)  
14 Rape 3 (RCW 9A.44.060)  
15 Rendering Criminal Assistance 1  
16 (RCW 9A.76.070)  
17 Sexual Misconduct with a Minor 1  
18 (RCW 9A.44.093)  
19 Sexually Violating Human Remains  
20 (RCW 9A.44.105)  
21 Stalking (RCW 9A.46.110)  
22 Taking Motor Vehicle Without  
23 Permission 1 (RCW 9A.56.070)  
24 IV Arson 2 (RCW 9A.48.030)  
25 Assault 2 (RCW 9A.36.021)  
26 Assault 3 (of a Peace Officer with a  
27 Projectile Stun Gun) (RCW  
28 9A.36.031(1)(h))  
29 Assault by Watercraft (RCW  
30 79A.60.060)  
31 Bribing a Witness/Bribe Received by  
32 Witness (RCW 9A.72.090,  
33 9A.72.100)  
34 Cheating 1 (RCW 9.46.1961)  
35 Commercial Bribery (RCW 9A.68.060)  
36 Counterfeiting (RCW 9.16.035(4))



1 Endangerment with a Controlled  
2 Substance (RCW 9A.42.100)  
3 Escape 1 (RCW 9A.76.110)  
4 Hit and Run--Injury (RCW  
5 46.52.020(4)(b))  
6 Hit and Run with Vessel--Injury  
7 Accident (RCW 79A.60.200(3))  
8 Identity Theft 1 (RCW 9.35.020(2))  
9 Indecent Exposure to Person Under  
10 Age Fourteen (subsequent sex  
11 offense) (RCW 9A.88.010)  
12 Influencing Outcome of Sporting Event  
13 (RCW 9A.82.070)  
14 Malicious Harassment (RCW  
15 9A.36.080)  
16 Residential Burglary (RCW  
17 9A.52.025)  
18 Robbery 2 (RCW 9A.56.210)  
19 Theft of Livestock 1 (RCW 9A.56.080)  
20 Threats to Bomb (RCW 9.61.160)  
21 Trafficking in the identity of another  
22 entity or person (section 2 of this  
23 act)  
24 Trafficking in Stolen Property 1 (RCW  
25 9A.82.050)  
26 Unlawful factoring of a credit card or  
27 payment card transaction (RCW  
28 9A.56.290(4)(b))  
29 Unlawful transaction of health  
30 coverage as a health care service  
31 contractor (RCW 48.44.016(3))  
32 Unlawful transaction of health  
33 coverage as a health maintenance  
34 organization (RCW 48.46.033(3))  
35 Unlawful transaction of insurance  
36 business (RCW 48.15.023(3))

1 Unlicensed practice as an insurance  
2 professional (RCW  
3 48.17.063(~~(3)~~)(2))  
4 Use of Proceeds of Criminal  
5 Profiteering (RCW 9A.82.080 (1)  
6 and (2))  
7 Vehicular Assault, by being under the  
8 influence of intoxicating liquor or  
9 any drug, or by the operation or  
10 driving of a vehicle in a reckless  
11 manner (RCW 46.61.522)  
12 Willful Failure to Return from  
13 Furlough (RCW 72.66.060)  
14 III Animal Cruelty 1 (Sexual Conduct or  
15 Contact) (RCW 16.52.205(3))  
16 Assault 3 (Except Assault 3 of a Peace  
17 Officer With a Projectile Stun  
18 Gun) (RCW 9A.36.031 except  
19 subsection (1)(h))  
20 Assault of a Child 3 (RCW 9A.36.140)  
21 Bail Jumping with class B or C Felony  
22 (RCW 9A.76.170(3)(c))  
23 Burglary 2 (RCW 9A.52.030)  
24 Commercial Sexual Abuse of a Minor  
25 (RCW 9.68A.100)  
26 Communication with a Minor for  
27 Immoral Purposes (RCW  
28 9.68A.090)  
29 Criminal Gang Intimidation (RCW  
30 9A.46.120)  
31 Custodial Assault (RCW 9A.36.100)  
32 Cyberstalking (subsequent conviction  
33 or threat of death) (RCW  
34 9.61.260(3))  
35 Escape 2 (RCW 9A.76.120)  
36 Extortion 2 (RCW 9A.56.130)  
37 Harassment (RCW 9A.46.020)

1 Intimidating a Public Servant (RCW  
2 9A.76.180)  
3 Introducing Contraband 2 (RCW  
4 9A.76.150)  
5 Malicious Injury to Railroad Property  
6 (RCW 81.60.070)  
7 Mortgage Fraud (RCW 19.144.080)  
8 Negligently Causing Substantial Bodily  
9 Harm By Use of a Signal  
10 Preemption Device (RCW  
11 46.37.674)  
12 Organized Retail Theft 1 (RCW  
13 9A.56.350(2))  
14 Perjury 2 (RCW 9A.72.030)  
15 Possession of Incendiary Device (RCW  
16 9.40.120)  
17 Possession of Machine Gun or Short-  
18 Barreled Shotgun or Rifle (RCW  
19 9.41.190)  
20 Promoting Prostitution 2 (RCW  
21 9A.88.080)  
22 Retail Theft with Extenuating  
23 Circumstances 1 (RCW  
24 9A.56.360(2))  
25 Securities Act violation (RCW  
26 21.20.400)  
27 Tampering with a Witness (RCW  
28 9A.72.120)  
29 Telephone Harassment (subsequent  
30 conviction or threat of death)  
31 (RCW 9.61.230(2))  
32 Theft of Livestock 2 (RCW 9A.56.083)  
33 Theft with the Intent to Resell 1 (RCW  
34 9A.56.340(2))  
35 Trafficking in Stolen Property 2 (RCW  
36 9A.82.055)

1 Unlawful Imprisonment (RCW  
2 9A.40.040)  
3 Unlawful possession of firearm in the  
4 second degree (RCW 9.41.040(2))  
5 Vehicular Assault, by the operation or  
6 driving of a vehicle with disregard  
7 for the safety of others (RCW  
8 46.61.522)  
9 Willful Failure to Return from Work  
10 Release (RCW 72.65.070)  
11 II Computer Trespass 1 (RCW  
12 9A.52.110)  
13 Counterfeiting (RCW 9.16.035(3))  
14 Escape from Community Custody  
15 (RCW 72.09.310)  
16 Failure to Register as a Sex Offender  
17 (second or subsequent offense)  
18 (RCW 9A.44.130(11)(a))  
19 Health Care False Claims (RCW  
20 48.80.030)  
21 Identity Theft 2 (RCW 9.35.020(3))  
22 Improperly Obtaining Financial  
23 Information (RCW 9.35.010)  
24 Malicious Mischief 1 (RCW  
25 9A.48.070)  
26 Organized Retail Theft 2 (RCW  
27 9A.56.350(3))  
28 Possession of Stolen Property 1 (RCW  
29 9A.56.150)  
30 Possession of a Stolen Vehicle (RCW  
31 9A.56.068)  
32 Retail Theft with Extenuating  
33 Circumstances 2 (RCW  
34 9A.56.360(3))  
35 Theft 1 (RCW 9A.56.030)  
36 Theft of a Motor Vehicle (RCW  
37 9A.56.065)

1 Theft of Rental, Leased, or Lease-  
2 purchased Property (valued at one  
3 thousand five hundred dollars or  
4 more) (RCW 9A.56.096(5)(a))  
5 Theft with the Intent to Resell 2 (RCW  
6 9A.56.340(3))  
7 Trafficking in Insurance Claims (RCW  
8 48.30A.015)  
9 Unlawful factoring of a credit card or  
10 payment card transaction (RCW  
11 9A.56.290(4)(a))  
12 Unlawful Practice of Law (RCW  
13 2.48.180)  
14 Unlicensed Practice of a Profession or  
15 Business (RCW 18.130.190(7))  
16 Voyeurism (RCW 9A.44.115)  
17 I Attempting to Elude a Pursuing Police  
18 Vehicle (RCW 46.61.024)  
19 False Verification for Welfare (RCW  
20 74.08.055)  
21 Forgery (RCW 9A.60.020)  
22 Fraudulent Creation or Revocation of a  
23 Mental Health Advance Directive  
24 (RCW 9A.60.060)  
25 Malicious Mischief 2 (RCW  
26 9A.48.080)  
27 Mineral Trespass (RCW 78.44.330)  
28 Possession of Stolen Property 2 (RCW  
29 9A.56.160)  
30 Reckless Burning 1 (RCW 9A.48.040)  
31 Taking Motor Vehicle Without  
32 Permission 2 (RCW 9A.56.075)  
33 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-  
2 purchased Property (valued at two  
3 hundred fifty dollars or more but  
4 less than one thousand five  
5 hundred dollars) (RCW  
6 9A.56.096(5)(b))  
7 Transaction of insurance business  
8 beyond the scope of licensure  
9 (RCW 48.17.063(~~(4)~~))  
10 Unlawful Issuance of Checks or Drafts  
11 (RCW 9A.56.060)  
12 Unlawful Possession of Fictitious  
13 Identification (RCW 9A.56.320)  
14 Unlawful Possession of Instruments of  
15 Financial Fraud (RCW 9A.56.320)  
16 Unlawful Possession of Payment  
17 Instruments (RCW 9A.56.320)  
18 Unlawful Possession of a Personal  
19 Identification Device (RCW  
20 9A.56.320)  
21 Unlawful Production of Payment  
22 Instruments (RCW 9A.56.320)  
23 Unlawful Trafficking in Food Stamps  
24 (RCW 9.91.142)  
25 Unlawful Use of Food Stamps (RCW  
26 9.91.144)  
27 Vehicle Prowl 1 (RCW 9A.52.095)

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