



## Kansas Bureau of Investigation

Kirk Thompson  
*Director*

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Testimony of Kyle Smith,  
Assistant Attorney General/Deputy Director  
In support of HB 2093  
Before the House Corrections and Juvenile Justice Committee  
February 14, 2013

Chairman Rubin and Members of the Committee,

On behalf of Attorney General Derek Schmidt I appear today in support of HB 2093, a bill in our constant need to update our statutes to deal with rapidly evolving technology.

HB 2093 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 keys 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 fraud closely shadow traditional consumer fraud offenses. 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 to the bill to authorize that option, in addition to the criminal provisions already in the law and bill.

I would be happy to stand for questions.

## Attorney General's Proposed Amendment to HB 2093

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

- (1) Defraud that person, or anyone else, in order to receive any benefit; or
- (2) *misrepresent that person in order to subject that person to economic or bodily harm.*

(b) Identity fraud is:

- (1) Using or supplying information the person knows to be false in order to obtain a document containing any personal identifying information; or
- (2) altering, amending, counterfeiting, making, manufacturing or otherwise replicating any document containing personal identifying information with the intent to deceive;

(c) (1) Identity theft is a:

- (A) Severity level 8, nonperson felony, except as provided in subsection (c)(1)(B); and
- (B) severity level 5, nonperson felony if the monetary loss to the victim or victims is more than \$100,000.

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

***(3) In addition to, or instead of the criminal penalties provided by this section, a person who violates any provision of this section shall be subject to proceedings under the Kansas consumer protection act.***