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HOUSE FILE NO. 541

FIRST COMMITTEE ENGROSSMENT

February 1, 2007

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The bill was read for the first time and referred to the Committee on Commerce and Labor

Referred by Chair to Labor and Consumer Protection Division.

March 5, 2007

Returned to the Committee on Commerce and Labor as Amended.

1.1 A bill for an act
1.2 relating to crimes; defining identity theft to include posing as another person for
1.3 purposes of harassing or defaming; amending Minnesota Statutes 2006, section
1.4 609.527, subdivisions 1, 2, 3.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 609.527, subdivision 1, is amended to read:

1.7 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the
1.8 meanings given them in this subdivision.

1.9 (b) "Direct victim" means any person or entity described in section 611A.01,
1.10 paragraph (b), whose identity has been transferred, used, or possessed in violation of
1.11 this section.

1.12 (c) "False pretense" means any false, fictitious, misleading, or fraudulent information
1.13 or pretense or pretext depicting or including or deceptively similar to the name, logo, Web
1.14 site address, e-mail address, postal address, telephone number, or any other identifying
1.15 information of a for-profit or not-for-profit business or organization or of a government
1.16 agency, to which the user has no legitimate claim of right.

1.17 (d) "Identity" means any name, number, or data transmission that may be used, alone
1.18 or in conjunction with any other information, to identify a specific individual or entity,
1.19 including any of the following:

1.20 (1) a name, Social Security number, date of birth, official government-issued driver's
1.21 license or identification number, government passport number, or employer or taxpayer
1.22 identification number;

1.23 (2) unique electronic identification number, address, account number, or routing
1.24 code; or

2.1 (3) telecommunication identification information or access device.

2.2 (e) "Indirect victim" means any person or entity described in section 611A.01,
2.3 paragraph (b), other than a direct victim.

2.4 (f) "Loss" means value obtained, as defined in section 609.52, subdivision 1, clause
2.5 (3), and expenses incurred by a direct or indirect victim as a result of a violation of this
2.6 section.

2.7 (g) "Unlawful activity" means:

2.8 (1) any felony violation of the laws of this state or any felony violation of a similar
2.9 law of another state or the United States; and

2.10 (2) any nonfelony violation of the laws of this state involving theft, theft by swindle,
2.11 forgery, fraud, or giving false information to a public official, or any nonfelony violation
2.12 of a similar law of another state or the United States.

2.13 (h) "Harass" has the meaning provided in section 609.749, subdivision 1, clause (1).

2.14 (i) "Defame" has the meaning provided in section 609.765, subdivision 1.

2.15 (j) "Pose" means to falsely represent oneself, directly or indirectly, as another
2.16 person or persons.

2.17 Sec. 2. Minnesota Statutes 2006, section 609.527, subdivision 2, is amended to read:

2.18 Subd. 2. **Crime.** (a) A person who transfers, possesses, or uses an identity that is
2.19 not the person's own, with the intent to commit, aid, or abet any unlawful activity is guilty
2.20 of identity theft and may be punished as provided in subdivision 3.

2.21 (b) A person who poses without the express authorization of that person or persons
2.22 and harasses or defames that person or another person is guilty of identity theft and may
2.23 be punished as provided in subdivision 3.

2.24 Sec. 3. Minnesota Statutes 2006, section 609.527, subdivision 3, is amended to read:

2.25 Subd. 3. **Penalties.** A person who violates subdivision 2 may be sentenced as
2.26 follows:

2.27 (1) if the offense involves a single direct victim and the total, combined loss to
2.28 the direct victim and any indirect victims is \$250 or less, the person may be sentenced
2.29 as provided in section 609.52, subdivision 3, clause (5);

2.30 (2) if the offense involves a single direct victim and the total, combined loss to the
2.31 direct victim and any indirect victims is more than \$250 but not more than \$500, the
2.32 person may be sentenced as provided in section 609.52, subdivision 3, clause (4);

3.1 (3) if the offense involves two or three direct victims or the total, combined loss to
3.2 the direct and indirect victims is more than \$500 but not more than \$2,500, the person may
3.3 be sentenced as provided in section 609.52, subdivision 3, clause (3);

3.4 (4) if the offense involves more than three but not more than seven direct victims, or
3.5 if the total combined loss to the direct and indirect victims is more than \$2,500, the person
3.6 may be sentenced as provided in section 609.52, subdivision 3, clause (2); ~~and~~

3.7 (5) if the offense involves eight or more direct victims; or if the total, combined loss
3.8 to the direct and indirect victims is more than \$35,000; or if the offense is related to
3.9 possession or distribution of pornographic work in violation of section 617.246 or 617.247;
3.10 the person may be sentenced as provided in section 609.52, subdivision 3, clause (1); and

3.11 (6) if the offense is a violation of subdivision 2, paragraph (b), the person may be
3.12 sentenced as provided in section 609.52, subdivision 3, clause (4).

3.13 Sec. 4. **EFFECTIVE DATE.**

3.14 Sections 1 to 3 are effective August 1, 2007, and apply to crimes committed on or
3.15 after that date.