Senate Bill No. 226

CHAPTER 40

An act to amend Section 786 of the Penal Code, relating to identity theft.

[Approved by Governor August 5, 2009. Filed with Secretary of State August 6, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 226, Alquist. Identity theft: jurisdiction.

Existing law provides that when multiple offenses occur in multiple jurisdictions and all of the offenses involve the same defendant or defendants and the unauthorized use of the personal identifying information of one person, then jurisdiction for all offenses is proper in any one of the counties where an offense occurred.

This bill would provide, in addition, that when multiple offenses occur in multiple jurisdictions and all of the offenses involve the same defendant or defendants and either the same personal identifying information of one person or the same scheme or substantially similar activity, then jurisdiction for all offenses, including associated offenses connected together in their commission to an underlying identity theft offense, is proper in any one of the counties where one of the offenses occurred.

Existing law requires a court to consider specified facts when determining if all counts in a complaint alleging multiple offenses of unauthorized use of personal identifying information occurring in multiple counties should be joined in one county for prosecution.

This bill would, in addition, require the court to consider whether or not the offenses involved substantially similar activity or the same scheme when making that determination.

The people of the State of California do enact as follows:

SECTION 1. Section 786 of the Penal Code is amended to read:

786. (a) When property taken in one jurisdictional territory by burglary, carjacking, robbery, theft, or embezzlement has been brought into another, or when property is received in one jurisdictional territory with the knowledge that it has been stolen or embezzled and the property was stolen or embezzled in another jurisdictional territory, the jurisdiction of the offense is in any competent court within either jurisdictional territory, or any contiguous jurisdictional territory if the arrest is made within the contiguous territory, the prosecution secures on the record the defendant's knowing, voluntary, and intelligent waiver of the right of vicinage, and the defendant is charged with one or more property crimes in the arresting territory.

(b) (1) The jurisdiction of a criminal action for unauthorized use, retention, or transfer of personal identifying information, as defined in subdivision (b) of Section 530.55, shall also include the county where the theft of the personal identifying information occurred, the county in which the victim resided at the time the offense was committed, or the county where the information was used for an illegal purpose. If multiple offenses of unauthorized use of personal identifying information, either all involving the same defendant or defendants and the same personal identifying information belonging to the one person, or all involving the same defendant or defendants and the same scheme or substantially similar activity, occur in multiple jurisdictions, then any of those jurisdictions is a proper jurisdiction for all of the offenses. Jurisdiction also extends to all associated offenses connected together in their commission to the underlying identify theft offense or identity theft offenses.

(2) When charges alleging multiple offenses of unauthorized use of personal identifying information occurring in multiple territorial jurisdictions are filed in one county pursuant to this section, the court shall hold a hearing to consider whether the matter should proceed in the county of filing, or whether one or more counts should be severed. The district attorney filing the complaint shall present evidence to the court that the district attorney in each county where any of the charges could have been filed has agreed that the matter should proceed in the county of filing. In determining whether all counts in the complaint should be joined in one county for prosecution, the court shall consider the location and complexity of the likely evidence, where the majority of the offenses occurred, whether or not the offenses involved substantially similar activity or the same scheme, the rights of the defendant and the people, and the convenience of, or hardship to, the victim and witnesses.

(3) When an action for unauthorized use, retention, or transfer of personal identifying information is filed in the county in which the victim resided at the time the offense was committed, and no other basis for the jurisdiction applies, the court, upon its own motion or the motion of the defendant, shall hold a hearing to determine whether the county of the victim's residence is the proper venue for trial of the case. In ruling on the matter, the court shall consider the rights of the parties, the access of the parties to evidence, the convenience to witnesses, and the interests of justice.

(c) This section shall not be interpreted to alter victims' rights under Section 530.6.

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