



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

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House Committee on Judiciary
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by

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HB 0581 – RELATING TO INFORMATION

The University of Hawaii appreciates and supports the intent of the Legislature to protect Hawaii's citizenry from identity theft. However, we cannot support this Bill in its current form.

Following are our concerns and suggestions:

We recommend that if the Legislature wishes to protect Hawaii's citizenry against identity theft, it would be more effective to enact legislation that would focus on preventing the crime of identity theft rather than to focus solely on data breaches. Evidence tells us that most data breaches do not result in identity theft, and most identity theft does not result from data breaches.

Identify theft occurs when an organization issues new credit in someone's name without their permission. In most cases, the data used by the identify thief was acquired through means other than data breaches. Techniques include stolen paper mail, stolen wallets, compromise of the victim's personal computer, phishing, burglary or compromise by acquaintances, relatives, colleagues or someone working in the victim's home.

A more effective approach to protect Hawaii citizens from identity theft would recognize all these potential sources of compromise and focus on prevention of the crime of identity theft itself.

One approach would be to enact legislation that puts credit records for all of Hawaii's citizens in a default state of "freeze," so that new accounts could be opened in someone's name only with their explicit permission. This would make it more difficult for creditors to open fraudulent accounts in someone's name regardless of how their personal information had been compromised.

Another alternative would be for the State to attempt to mandate and/or purchase regular credit reports for all of Hawaii's citizens.

These approaches would protect Hawaii's citizens against identity theft resulting from compromises in other states or other countries rather than focusing solely on data breaches in Hawaii.

Nonetheless, if the Legislature wishes to continue to focus on data breaches, we offer the following suggestions. Any new reporting requirements should be completely integrated with existing reporting requirements enacted by the Legislature in previous sessions (e.g., Act 135 SLH 2006). Timelines should be reasonable and achievable, and recognize that at the time a data breach is discovered it may take extensive investigation to determine exactly what information may have been breached. And then it may take an extensive period of time to locate and contact the individuals affected -- who may no longer have any active affiliation with the entity that suffered the breach. And in this time of budget reductions, if the Legislature wishes to create new financial obligations for public entities, it would be preferable to provide funding and resources to a single central agency, perhaps the Consumer Advocate. This would allow the negotiation of lower prices for the desired credit reports and the avoidance of potentially duplicative expenditures if an individual's information were breached in more than one place.

Thank you for this opportunity to testify in support of improved protection for Hawaii's citizenry from identity theft.