

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City
17th CONGRESS
First Regular Session

House Bill No. **5575**

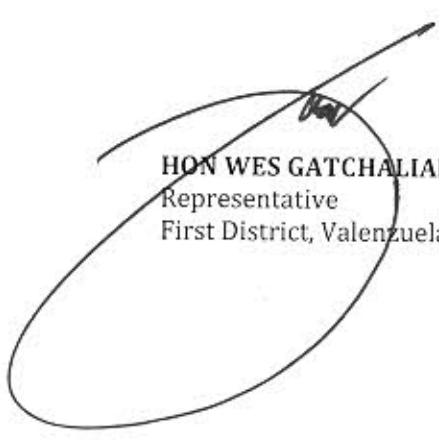


Introduced by ***Representative Wes Gatchalian***

This bill seeks to criminalize Identity Theft and Identity Fraud supplementing the protections afforded by the Data Privacy Act of 2012. While the latter law protects the integrity of personal data, this bill will be *lex specialis* in penalizing the use of such personal data in appropriating to one's self the identity of another person for personal gain or to defraud another.

In the advent of big data and storage in the cloud with the parallel complexity of today's communication, more and more the ability to take the identity of another person using such person's personal data is becoming much easier and is becoming more common. These acts can range from the simple act of using the pictures and data of another person to make *troll* accounts in social media, to more serious ones such as using personal data to access a person's accounts to make fraudulent transactions or just outright steal from that person. Our laws should appropriately adjust to these nefarious realities. The first step is by penalizing offenders with stronger penalties, with the hope that this will be a deterrence to those who would attempt to do the same. It must be that the penalty would be of such afflictive character that it would not even be worth it that a person attempts to engage in these acts. As a minimum, this bill proposes the penalty of *prision correccional* with a hefty fine of at least twice the damage caused by the act or whatever benefit the perpetrator sought to gain. It is submitted that these penalties are of such nature that they will achieve their intended effects.

In closing it is perhaps proper to remember that our identity is sacred. It is a divine gift from our Maker vesting in us *imago dei* and giving us a dignity that is a level above everything else that walks this planet. It is our identity that will remain in the hearts of our closest friends and our family long after we are gone. And it is our identity that will be a marker for whatever legacy we will leave to our community. We must therefore with vigor and decisiveness, protect it and defend it against those who would threaten to tarnish it for their own selfish gains.



HON WES GATCHALIAN
Representative
First District, Valenzuela City

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House Bill No. 5575

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AN ACT
DEFINING THE CRIMES OF
IDENTITY THEFT AND IDENTITY FRAUD
AND PROVIDING THE APPROPRIATE PENALTIES
THEREFOR

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Section 1. Short Title. - This act shall be known as the "*Anti-Identity Theft Act of 2017*"

Section 2. Definition of Terms. -

- (1) "Personal Electronic Content" means the electronically stored content of an individual including, but not limited to, pictures, videos, emails and other data files;
- (2) "Social Networking Website" means a privacy-protected internet website which allows individuals to construct a public or semi-public profile within a bounded system created by the service, create a list of other users with whom the individual shares a connection within the system and view and navigate the list of users with whom the individual shares a connection and those lists of users made by others within the system;
- (3) "Personal Identifying Information" includes, but is not limited to, the following:
 - (a) Name;
 - (b) Birth date;
 - (c) Address;

- (d) Telephone number;
- (e) Driver's license number or card, or student license number or card
- (f) Social security number or card;
- (g) Place of employment;
- (h) Employee identification numbers or other personal identification numbers or cards;
- (i) Mother's maiden name;
- (j) Birth, death or marriage certificates;
- (k) Electronic identification numbers; electronic signatures;
- (l) Any financial number, or password that can be used to access a person's financial resources, including, but not limited to, checking or savings accounts, credit or debit card information, demand deposit or medical information; and
- (m) Passwords, usernames or other log-in information that can be used to access a person's personal electronic content, including, but not limited to, content stored on a social networking website;

Secrion. 3. *Identity Theft and Identity Fraud.* -

(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, or personal electronic content, 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;

Section 4 *Penalty.* -

(a) Identity theft punishable by the penalty of prison correccional except as when the damage to the person or persons, who was or were the subject of the offense exceeds an aggregate amount of P 500,000.00, or the expected benefit of the offending party exceeds an aggregate amount of P 500, 000.00, in which case the penalty shall be prison mayor. In all cases with a fine that is not less than twice the damage caused or the benefit sought to be gained.

(b) When the identity theft is as defined in Section 3 of this Act is perpetrated by three or more individuals conspiring together to commit the unlawful act, the penalty shall be reclusion temporal, except as when the damage to the person or persons, who was or were the subject of the offense exceeds an aggregate amount of P 500,000.00, or the expected benefit of the offending parties exceeds an aggregate amount of P 500, 000.00, in which case the penalty shall be reclusion perpetua.

(c) Identity fraud shall be punishable by the penalty of prison correccional. But when it is perpetrated by three or more individuals conspiring together to commit the unlawful act, the penalty shall be prison mayor.

Section 5. *Defenses.* - It is not a defense that the person did not know that such personal identifying information belongs to another person, or that the person to whom such personal identifying information belongs or was issued is deceased.

Section 6. *Applicability of the Revised Penal Code.* - All the provisions of the Revised Penal Code not inconsistent with this act shall suppletorily apply in the implementation of this Act.

Section 7. *Separability Clause.* - If any provision or part of this Act is held invalid or unconstitutional, the remaining parts or provisions not affected shall remain in full force and effect.

Section 8. *Repealing Clause.* - All laws, executive orders, presidential decrees or issuances, letter of instruction, administrative orders, rules, and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

Section 9. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.