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THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawai`i

February 4, 2015

RE: H.B. 781; RELATING TO PERSONAL ELECTRONIC DEVICES.

Chair McKelvey, Vice Chair Woodson and members of the House Committee on Consumer Protection & Commerce, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support with suggested amendment of H.B. 781.

The purpose of this bill is to amend the offense of Theft in the Second Degree under section 708-831 of the HRS to include theft of any computer capable of storing or retrieving personal information. Use of the term, "computer," as defined in HRS §708-890, would be sufficient to cover theft of a personal computer, laptop computer, tablet computer, and/or cellular phone with data processing while at the same time accommodating any future devices having similar capabilities, regardless of any new terminology used to describe those devices.

We recommend deleting the language on p. 4 lines 11-13: “Of any computer capable of storing or retrieving personal information” and on lines 15-16: “Personal information’ has the same meaning as in section 487D-1.” This language is unnecessary because the “Computer” definition has “storage functions.” Further, in litigation, it would be an extra hurdle for deputy prosecuting attorneys to prove the computer was capable of storing personal information. The broad definition of “Computer” suffices.

As high-speed data processing devices—such as cell phones, tablets, and laptops—become increasingly important and used into our everyday lives, people are storing and retrieving increasingly more information—and more sensitive information—on these devices. Indeed, the theft of one's cell phone can be devastating to a victim whose personal contacts, passwords, account numbers, or other sensitive information is stored thereon, regardless of the actual market-value of that device at the time of offense. Even a smartphone that is perhaps one or two years old, valued now at \$50, can store and retrieve just-as vital information as a brand-

new model purchased last month for \$700. H.B. 781 reflects this reality, and the actual value and importance that these devices have to their owners.

For the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the passage of H.B. 781 with our suggested amendments. Thank you for the opportunity to testify on this matter.

ALAN M. ARAKAWA
Mayor



JOHN D. KIM
Acting Prosecuting Attorney
ROBERT D. RIVERA
Acting First Deputy Prosecuting Attorney

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TESTIMONY
ON
HB 781- RELATING TO PERSONAL ELECTRONIC DEVICES

February 4, 2015

The Honorable Angus L. K. McKelvey
Chair
The Honorable Justin H. Woodson
Vice Chair
and Members
House Committee on Consumer Protection & Commerce

Chair McKelvey, Vice Chair Woodson and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui, SUPPORTS HB 781 - Relating to Theft of Personal Electronic Devices. HB 781 establishes a Class C felony for theft of personal electronic devices that may be used to store or retrieve personal information.

We join in the testimony of the Department of Prosecuting Attorney, City and County of Honolulu, in support of this bill. Today's personal electronic devices - smart phones, tablets, laptops and the like - are able to contain various items of personal information. The law needs to reflect this change in technology.

We also support the amendment proposed by the Honolulu Prosecutor.

Accordingly, the Department of the Prosecuting Attorney, County of Maui, SUPPORTS the passage of this bill with the proposed amendment. We ask that the committee PASS HB 781 with the amendment.

Thank you very much for the opportunity to provide testimony on this bill.

Justin F. Kollar
Prosecuting Attorney

Kevin K. Takata
First Deputy



Rebecca A. Vogt
Second Deputy

Diana Gausepohl-White
Victim/Witness Program Director

OFFICE OF THE PROSECUTING ATTORNEY

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**TESTIMONY IN SUPPORT OF
H.B.781 – RELATING TO PERSONAL ELECTRONIC DEVICES**

**Justin F. Kollar, Prosecuting Attorney
County of Kaua'i**

House Committee on Consumer Protection & Commerce
February 4, 2015, 2:45 p.m., Conference Room 325

Chair McKelvey, Vice Chair Woodson, and Members of the Committee:

The Office of the Prosecuting Attorney, County of Kaua'i, submits the following testimony in support with suggested amendment of H.B. 781.

The purpose of H.B.781 is to amend Hawai'i Revised Statutes Section 708-831, Theft in the Second Degree, to include theft of any computer capable of storing or retrieving personal information. Currently, the use of the term "computer," as defined in Hawai'i Revised Statutes Section 708-890, is sufficient to cover the theft of a personal computer, laptop computer, tablet computer, and/or cellular phone with data processing, in addition to any future devices with similar capabilities.

We concur with the Department of the Prosecuting Attorney of the City and County of Honolulu's testimony and support their suggested amendments.

Furthermore, it is of great importance to note the evolution of technology and how devices such as cell phones, tablets, and laptops now have the capability to store and retrieve personal and sensitive information similar to a desktop computer; these additional devices would be covered according to the definition of "Computer" as it indicates "storage functions". By keeping the definition of "Computer" broad, the theft of a person's cellphone or tablet that may contain passwords, account numbers, and other sensitive information could be better prosecuted.

Accordingly, we SUPPORT H.B.781 with the amendment suggested by the Department of the Prosecuting Attorney of the City and County of Honolulu. Thank you for the opportunity to testify on this matter.

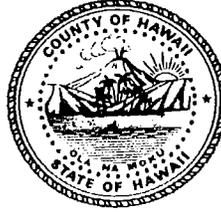
Respectfully,

A handwritten signature in black ink, appearing to read "Justin F. Kollar", with a long, sweeping flourish extending to the right.

Justin F. Kollar
Prosecuting Attorney

MITCHELL D. ROTH
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OFFICE OF THE PROSECUTING ATTORNEY

TESTIMONY IN SUPPORT OF HOUSE BILL 781

A BILL FOR AN ACT RELATING TO THEFT OF PERSONAL
ELECTRONIC DEVICES

COMMITTEE ON CONSUMER PROTECTION &
COMMERCE

Rep. Angus L.K. McKelvey, Chair
Rep. Justin H. Woodson, Vice Chair

Wednesday, February 4, 2015, 2:45 PM
State Capitol, Conference Room 325

Honorable Chair McKelvey, Vice-Chair Woodson, and Members of the Committee on Consumer Protection & Commerce, the Office of the Prosecuting Attorney, County of Hawai'i submits the following testimony in support of House Bill No. 781, with suggested amendments.

This measure establishes a Class C felony for theft of personal electronic devices that may be used to store or retrieve personal information.

We join in testimony with the Department of the Prosecuting Attorney, City and County of Honolulu and the Department of the Prosecuting Attorney, County of Maui, in support of this Bill. Property crimes that involve personal electronic devices can lead to further crimes by use of the victim's personal information due to the large amount of personal data that can be stored on these devices, and this law addresses this fact.

We also support the amendment proposed by the Honolulu Prosecutor.

The Office of the Prosecuting Attorney, County of Hawai'i supports the passage of House Bill No. 781 with the suggested amendments. Thank you for the opportunity to testify on this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "M. Roth".

Mitchell D. Roth
Prosecuting Attorney
County of Hawai'i

woodson2-Rachel

From: mailinglist@capitol.hawaii.gov
Sent: Friday, January 30, 2015 12:52 AM
To: CPCtestimony
Cc: kalawaiag@hotmail.com
Subject: *Submitted testimony for HB781 on Feb 4, 2015 14:45PM*

HB781

Submitted on: 1/30/2015

Testimony for CPC on Feb 4, 2015 14:45PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kalawai'a Goo	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 03, 2015 11:22 AM
To: CPCtestimony
Cc: lisacates@hawaii.rr.com
Subject: Submitted testimony for HB781 on Feb 4, 2015 14:45PM

HB781

Submitted on: 2/3/2015

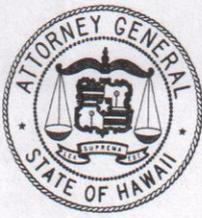
Testimony for CPC on Feb 4, 2015 14:45PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa Cates	Individual	Support	No

Comments: Thieves often target smaller items such as laptops, smart phones, and electronic tablets because they are easily concealed and are hot on the black market for resale. There is also the additional layer of identity theft. The effects of identity theft upon an individual are often financially devastating and can sometimes take years for a victim to recover. Therefore, theft of a personal electronic device should be a felony under HRS 708-831 regardless of the monetary value of the personal electronic device. Mahalo, Lisa Cates

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

LATE TESTIMONY

ON THE FOLLOWING MEASURE:

H.B. NO. 781, RELATING TO THEFT OF PERSONAL ELECTRONIC DEVICES.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Wednesday, February 4, 2015 **TIME:** 2:45 p.m.

LOCATION: State Capitol, Room 325

TESTIFIER(S): Russell A. Suzuki, Attorney General, or
Albert Cook, Deputy Attorney General

Chair Mckelvey and Members of the Committee:

The Department of the Attorney General supports this bill and urges its passage.

This bill makes the theft of personal electronic devices a class C felony and eliminates the difficulty of setting a monetary value for personal electronic devices.

Personal electronic devices store personal and sensitive information and data that far exceeds the monetary value of the devices themselves. Theft of these devices also carry the likelihood of identity theft and theft of personal confidential information because once someone has possession and access to these devices, the sensitive information contained is likely compromised and ripe for exploitation. Lastly, monetary valuation of these personal electronic devices can be problematic as electronic devices rapidly lose their monetary value as new models are constantly being releases. Additionally, many devices are provided either free or at substantial discounts by cell phone providers, thus making a monetary valuation difficult.

We respectfully request passage of this measure.