

**SB3896**



**101ST GENERAL ASSEMBLY**

**State of Illinois**

**2019 and 2020**

**SB3896**

Introduced 2/14/2020, by Sen. Michael E. Hastings

**SYNOPSIS AS INTRODUCED:**

815 ILCS 530/10

Amends the Personal Information Protection Act. Provides that data collectors that maintain or store, but do not own or license, computerized data that includes personal information and that are required to issue notice pursuant to this Section to the owner or licensee of the information that there has been a breach of the security of the data shall notify the Attorney General regarding the breach. Effective immediately.

LRB101 20807 JLS 70505 b

**A BILL FOR**

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Personal Information Protection Act is  
5 amended by changing Section 10 as follows:

6 (815 ILCS 530/10)

7 Sec. 10. Notice of breach; notice to Attorney General.

8 (a) Any data collector that owns or licenses personal  
9 information concerning an Illinois resident shall notify the  
10 resident at no charge that there has been a breach of the  
11 security of the system data following discovery or notification  
12 of the breach. The disclosure notification shall be made in the  
13 most expedient time possible and without unreasonable delay,  
14 consistent with any measures necessary to determine the scope  
15 of the breach and restore the reasonable integrity, security,  
16 and confidentiality of the data system. The disclosure  
17 notification to an Illinois resident shall include, but need  
18 not be limited to, information as follows:

19 (1) With respect to personal information as defined in  
20 Section 5 in paragraph (1) of the definition of "personal  
21 information":

22 (A) the toll-free numbers and addresses for  
23 consumer reporting agencies;

1 (B) the toll-free number, address, and website  
2 address for the Federal Trade Commission; and

3 (C) a statement that the individual can obtain  
4 information from these sources about fraud alerts and  
5 security freezes.

6 (2) With respect to personal information defined in  
7 Section 5 in paragraph (2) of the definition of "personal  
8 information", notice may be provided in electronic or other  
9 form directing the Illinois resident whose personal  
10 information has been breached to promptly change his or her  
11 user name or password and security question or answer, as  
12 applicable, or to take other steps appropriate to protect  
13 all online accounts for which the resident uses the same  
14 user name or email address and password or security  
15 question and answer.

16 The notification shall not, however, include information  
17 concerning the number of Illinois residents affected by the  
18 breach.

19 (b) Any data collector that maintains or stores, but does  
20 not own or license, computerized data that includes personal  
21 information that the data collector does not own or license  
22 shall notify the owner or licensee of the information of any  
23 breach of the security of the data immediately following  
24 discovery, if the personal information was, or is reasonably  
25 believed to have been, acquired by an unauthorized person. In  
26 addition to providing such notification to the owner or

1 licensee, the data collector shall cooperate with the owner or  
2 licensee in matters relating to the breach. That cooperation  
3 shall include, but need not be limited to, (i) informing the  
4 owner or licensee of the breach, including giving notice of the  
5 date or approximate date of the breach and the nature of the  
6 breach, and (ii) informing the owner or licensee of any steps  
7 the data collector has taken or plans to take relating to the  
8 breach. The data collector's cooperation shall not, however, be  
9 deemed to require either the disclosure of confidential  
10 business information or trade secrets or the notification of an  
11 Illinois resident who may have been affected by the breach.

12 (b-5) The notification to an Illinois resident required by  
13 subsection (a) of this Section may be delayed if an appropriate  
14 law enforcement agency determines that notification will  
15 interfere with a criminal investigation and provides the data  
16 collector with a written request for the delay. However, the  
17 data collector must notify the Illinois resident as soon as  
18 notification will no longer interfere with the investigation.

19 (c) For purposes of this Section, notice to consumers may  
20 be provided by one of the following methods:

21 (1) written notice;

22 (2) electronic notice, if the notice provided is  
23 consistent with the provisions regarding electronic  
24 records and signatures for notices legally required to be  
25 in writing as set forth in Section 7001 of Title 15 of the  
26 United States Code; or

1           (3) substitute notice, if the data collector  
2 demonstrates that the cost of providing notice would exceed  
3 \$250,000 or that the affected class of subject persons to  
4 be notified exceeds 500,000, or the data collector does not  
5 have sufficient contact information. Substitute notice  
6 shall consist of all of the following: (i) email notice if  
7 the data collector has an email address for the subject  
8 persons; (ii) conspicuous posting of the notice on the data  
9 collector's web site page if the data collector maintains  
10 one; and (iii) notification to major statewide media or, if  
11 the breach impacts residents in one geographic area, to  
12 prominent local media in areas where affected individuals  
13 are likely to reside if such notice is reasonably  
14 calculated to give actual notice to persons whom notice is  
15 required.

16           (d) Notwithstanding any other subsection in this Section, a  
17 data collector that maintains its own notification procedures  
18 as part of an information security policy for the treatment of  
19 personal information and is otherwise consistent with the  
20 timing requirements of this Act, shall be deemed in compliance  
21 with the notification requirements of this Section if the data  
22 collector notifies subject persons in accordance with its  
23 policies in the event of a breach of the security of the system  
24 data.

25           (e)(1) This subsection does not apply to data collectors  
26 that are covered entities or business associates and are in

1 compliance with Section 50.

2 (2) Any data collector required to issue notice pursuant to  
3 this Section to more than 500 Illinois residents as a result of  
4 a single breach of the security system shall provide notice to  
5 the Attorney General of the breach, including:

6 (A) A description of the nature of the breach of  
7 security or unauthorized acquisition or use.

8 (B) The number of Illinois residents affected by such  
9 incident at the time of notification.

10 (C) Any steps the data collector has taken or plans to  
11 take relating to the incident.

12 (3) Any data collector that maintains or stores, but does  
13 not own or license, computerized data that includes personal  
14 information and that is required to issue notice pursuant to  
15 this Section to the owner or licensee of the information that  
16 there has been a breach of the security of the data shall  
17 notify the Attorney General of the following:

18 (A) A description of the nature of the breach of  
19 security or unauthorized acquisition or use.

20 (B) The number of Illinois residents affected by such  
21 incident at the time of notification.

22 (C) Any steps the data collector has taken or plans to  
23 take relating to the incident.

24 (4) Notifications required under paragraphs (2) and (3) of  
25 this subsection ~~Such notification~~ must be made in the most  
26 expedient time possible and without unreasonable delay but in

1 no event later than when the data collector provides notice to  
2 consumers pursuant to this Section. If the date of the breach  
3 is unknown at the time the notice is sent to the Attorney  
4 General, the data collector shall send the Attorney General the  
5 date of the breach as soon as possible.

6 Upon receiving notification pursuant to paragraph (2) or  
7 (3) of this subsection from a data collector of a breach of  
8 personal information, the Attorney General may publish the name  
9 of the data collector that suffered the breach, the types of  
10 personal information compromised in the breach, and the date  
11 range of the breach.

12 (Source: P.A. 100-201, eff. 8-18-17; 101-343, eff. 1-1-20.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.