

HB3412



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3412

Introduced 2/22/2021, by Rep. Janet Yang Rohr

SYNOPSIS AS INTRODUCED:

815 ILCS 530/10

Amends the Personal Information Protection Act. Provides that if there is a breach of the security of system data, a data collector must notify the Attorney General in addition to the Illinois resident to whom the breach relates. Requires the notice to be provided no later than 5 days after the breach.

LRB102 12757 JLS 18096 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 Attorney General and the resident at no charge that there has
11 been a breach of the security of the system data following
12 discovery or notification of the breach. The disclosure
13 notification shall be made in the most expedient time
14 possible, but no later than 5 days after the breach ~~and without~~
15 ~~unreasonable delay, consistent with any measures necessary to~~
16 ~~determine the scope of the breach and restore the reasonable~~
17 ~~integrity, security, and confidentiality of the data system.~~
18 The disclosure notification to an Illinois resident shall
19 include, but need not be limited to, information as follows:

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

23 (A) the toll-free numbers and addresses for

1 consumer reporting agencies;

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

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

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

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

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

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

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

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

24 (1) written notice;

25 (2) electronic notice, if the notice provided is
26 consistent with the provisions regarding electronic

1 records and signatures for notices legally required to be
2 in writing as set forth in Section 7001 of Title 15 of the
3 United States Code; or

4 (3) substitute notice, if the data collector
5 demonstrates that the cost of providing notice would
6 exceed \$250,000 or that the affected class of subject
7 persons to be notified exceeds 500,000, or the data
8 collector does not have sufficient contact information.
9 Substitute notice shall consist of all of the following:

10 (i) email notice if the data collector has an email
11 address for the subject persons; (ii) conspicuous posting
12 of the notice on the data collector's web site page if the
13 data collector maintains one; and (iii) notification to
14 major statewide media or, if the breach impacts residents
15 in one geographic area, to prominent local media in areas
16 where affected individuals are likely to reside if such
17 notice is reasonably calculated to give actual notice to
18 persons whom notice is required.

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

1 the system data.

2 (e)(1) This subsection does not apply to data collectors
3 that are covered entities or business associates and are in
4 compliance with Section 50.

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

9 (A) A description of the nature of the breach of
10 security or unauthorized acquisition or use.

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

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

15 Such notification must be made in the most expedient time
16 possible and without unreasonable delay but in no event later
17 than when the data collector provides notice to consumers
18 pursuant to this Section. If the date of the breach is unknown
19 at the time the notice is sent to the Attorney General, the
20 data collector shall send the Attorney General the date of the
21 breach as soon as possible.

22 Upon receiving notification from a data collector of a
23 breach of personal information, the Attorney General may
24 publish the name of the data collector that suffered the
25 breach, the types of personal information compromised in the
26 breach, and the date range of the breach.

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