



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0605

Introduced 2/5/2007, by Rep. Al Riley

SYNOPSIS AS INTRODUCED:

815 ILCS 530/5
815 ILCS 530/10

Amends the Personal Information Protection Act. Changes the definition of "breach of security of the system data" to "breach of the security of the system data or written material". Provides that the notice requirements of the Act apply to breaches of written material containing personal information. Provides that a data collector shall notify the resident that there has been a breach of the security of the system data or written material within 48 hours of the discovery of the breach of the system data or written material.

LRB095 04042 LCT 24079 b

1 AN ACT concerning consumer fraud.

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 Sections 5 and 10 as follows:

6 (815 ILCS 530/5)

7 Sec. 5. Definitions. In this Act:

8 "Data Collector" may include, but is not limited to,
9 government agencies, public and private universities,
10 privately and publicly held corporations, financial
11 institutions, retail operators, and any other entity that, for
12 any purpose, handles, collects, disseminates, or otherwise
13 deals with nonpublic personal information.

14 "Breach of the security of the system data or written
15 material" means unauthorized acquisition of computerized data
16 or written material that compromises the security,
17 confidentiality, or integrity of personal information
18 maintained by the data collector. "Breach of the security of
19 the system data" does not include good faith acquisition of
20 personal information by an employee or agent of the data
21 collector for a legitimate purpose of the data collector,
22 provided that the personal information is not used for a
23 purpose unrelated to the data collector's business or subject

1 to further unauthorized disclosure.

2 "Personal information" means an individual's first name or
3 first initial and last name in combination with any one or more
4 of the following data elements, when either the name or the
5 data elements are not encrypted or redacted:

6 (1) Social Security number.

7 (2) Driver's license number or State identification
8 card number.

9 (3) Account number or credit or debit card number, or
10 an account number or credit card number in combination with
11 any required security code, access code, or password that
12 would permit access to an individual's financial account.

13 "Personal information" does not include publicly available
14 information that is lawfully made available to the general
15 public from federal, State, or local government records.

16 (Source: P.A. 94-36, eff. 1-1-06.)

17 (815 ILCS 530/10)

18 Sec. 10. Notice of Breach.

19 (a) Any data collector that owns or licenses personal
20 information concerning an Illinois resident shall notify the
21 resident at no charge that there has been a breach of the
22 security of the system data or written material following
23 discovery or notification of the breach. The disclosure
24 notification shall be made within 48 hours of the discovery of
25 the breach of the security of the system data or written

1 material, in the most expedient time possible and without
2 unreasonable delay, consistent with any measures necessary to
3 determine the scope of the breach and restore the reasonable
4 integrity, security, and confidentiality of the data system or
5 written material files.

6 (b) Any data collector that maintains material files or
7 computerized data that includes personal information that the
8 data collector does not own or license shall notify the owner
9 or licensee of the information of any breach of the security of
10 the data immediately following discovery, if the personal
11 information was, or is reasonably believed to have been,
12 acquired by an unauthorized person.

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

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

22 (1) written notice;

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

1 United States Code; or

2 (3) substitute notice, if the data collector
3 demonstrates that the cost of providing notice would exceed
4 \$250,000 or that the affected class of subject persons to
5 be notified exceeds 500,000, or the data collector does not
6 have sufficient contact information. Substitute notice
7 shall consist of all of the following: (i) email notice if
8 the data collector has an email address for the subject
9 persons; (ii) conspicuous posting of the notice on the data
10 collector's web site page if the data collector maintains
11 one; and (iii) notification to major statewide media.

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

21 (Source: P.A. 94-36, eff. 1-1-06; 94-947, eff. 6-27-06.)