

JAN 22 2008

S.B. NO. 2803

A BILL FOR AN ACT

RELATING TO PERSONAL INFORMATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I.

2 SECTION 1. The purpose of this Act is to implement the
3 recommendations of the December 2007 report of the Hawaii
4 identity theft task force to protect the security of personal
5 information collected and maintained by state and county
6 government agencies.

7 PART II.

8 SECTION 2. Chapter 487J, Hawaii Revised Statutes, is
9 amended by adding a new section to be appropriately designated
10 and to read as follows:

11 "§487J-A Policy and oversight responsibility. (a) By
12 September 1, 2009, each government agency shall designate an
13 agency employee to have policy and oversight responsibilities
14 for the protection of personal information.

15 (b) The designated agency employee shall:

16 (1) Ensure and coordinate agency compliance with this
17 chapter, chapter 487N, and chapter 487R;



- 1 (2) Assist individuals who have identity theft and other
2 privacy-related concerns;
- 3 (3) Provide education and information to agency staff on
4 privacy and security issues;
- 5 (4) Coordinate with state, county, and federal law
6 enforcement agencies on identity theft investigations;
7 and
- 8 (5) Recommend policies and practices to protect individual
9 privacy rights relating to the individual's personal
10 information."

11 SECTION 3. Section 487J-1, Hawaii Revised Statutes, is
12 amended by adding a new definition to be appropriately inserted
13 and to read as follows:

14 "Personal information" has the same meaning as in section
15 487N-1."

16 SECTION 4. Chapter 487N, Hawaii Revised Statutes, is
17 amended by adding three new sections to be appropriately
18 designated and to read as follows:

19 "§487N-A Information privacy and security council;
20 established; duties; reports. (a) There is established an
21 information privacy and security council within the department
22 of commerce and consumer affairs for administrative purposes



1 only. Members of the council shall be appointed no later than
2 September 1, 2008, by the governor without regard section 26-34
3 and shall be composed of representatives of state and county
4 agencies.

5 (b) By January 1, 2009, the council shall submit to the
6 legislature a report of the council's assessment and
7 recommendations on initiatives to mitigate the negative impacts
8 of identity theft incidents on individuals. The report shall
9 emphasize assessing the merits of identity theft passport and
10 identity theft registry initiatives that have been implemented
11 in other states.

12 (c) No later than June 30, 2009, the council shall develop
13 guidelines to be considered by government agencies in deciding
14 whether, how, and when a government agency shall inform affected
15 individuals of the loss, disclosure, or security breach of
16 personal information that can contribute to identify theft. The
17 guidelines shall provide a standardized, risk-based notification
18 process in the instance of a security breach.

19 (d) The council shall review the individual annual reports
20 submitted by government agencies, pursuant to section 487N-C and
21 submit a summary report to the legislature no later than twenty
22 days prior to the convening of the regular session of 2010 and



1 each year thereafter. The summary report shall include the
2 council's findings, significant trends, and recommendations to
3 protect personal information used by government agencies.

4 The initial report to the legislature also shall include
5 proposed legislation to amend section 487N-2 or any other law
6 that the council deems necessary to conform to the guidelines
7 established under subsection (c).

8 **§487N-B Personal information security; best practices;**
9 **websites.** (a) The council shall identify best practices to
10 assist government agencies in improving security and privacy
11 programs relating to personal information. No later than March
12 31, 2009, the council shall identify best practices relating to:

- 13 (1) Automated tools;
- 14 (2) Training;
- 15 (3) Processes; and
- 16 (4) Applicable standards.

17 (b) No later than July 31, 2009, the best practices
18 identified by the council shall be posted on each government
19 agency's website in a manner that is readily accessible by
20 employees of the government agency.

21



1 §487N-C Personal information system; government agencies;

2 annual report. (a) Effective January 1, 2009, any government
3 agency that maintains one or more personal information system
4 shall submit to the council an annual report on the existence
5 and character of each personal information system added or
6 eliminated since the agency's previous annual report. The
7 annual report shall be submitted no later than September 30 of
8 each year.

9 (b) The annual report shall include:

10 (1) The name or descriptive title of the personal
11 information system and its location;

12 (2) The nature and purpose of the personal information
13 system and the statutory or administrative authority
14 for its establishment;

15 (3) The categories of individuals on whom personal
16 information is maintained, including:

17 (A) The approximate number of all individuals on whom
18 personal information is maintained; and

19 (B) The categories of personal information generally
20 maintained in the system, including
21 identification of records that are:

22 (i) Stored in computer accessible records; or



- 1 (ii) Maintained manually;
- 2 (4) All confidentiality requirements relating to:
- 3 (A) Personal information systems or parts thereof
- 4 that are confidential pursuant to statute, rule,
- 5 or contractual obligation; and
- 6 (B) Personal information systems maintained on an
- 7 unrestricted basis;
- 8 (5) Detailed justification of the need for statutory or
- 9 regulatory authority to maintain any personal
- 10 information system or part thereof on a confidential
- 11 basis for all personal information systems or parts
- 12 thereof that are required by law or rule;
- 13 (6) The categories of sources of personal information;
- 14 (7) The agency's policies and practices regarding personal
- 15 information storage, duration of retention of
- 16 information, and elimination of information from the
- 17 system;
- 18 (8) The uses made by the agency of personal information
- 19 contained in any personal information system;
- 20 (9) The identity of agency personnel, by job
- 21 classification, and other agencies, persons, or
- 22 categories to whom disclosures of personal information



1 are made or to whom access to the personal information
2 system may be granted, including the purposes of
3 access and any restrictions on disclosure, access, and
4 redisclosure;

5 (10) A list identifying all forms used by the agency in the
6 collection of personal information; and

7 (11) The name, title, business address, and telephone
8 number of the individual immediately responsible for
9 complying with this section.

10 (c) For purposes of this section:

11 "Personal information system" means any manual or automated
12 recordkeeping process that contains personal information and the
13 name, personal number, or other identifying particulars of a
14 data subject."

15 SECTION 5. Section 487N-1, Hawaii Revised Statutes, is
16 amended by adding a new definition to be appropriately inserted
17 and to read as follows:

18 "Council" means the information privacy and security
19 council established under section 487N-A."

20 SECTION 6. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$ or so much
22 thereof as may be necessary for fiscal year 2008-2009 for three

1 staff analyst positions to support the work of the information
2 privacy and security council established pursuant to this Act.

3 The sum appropriated shall be expended by the department of
4 commerce and consumer affairs for purposes of this part.

5 PART III.

6 SECTION 7. Act 137, Session Laws of Hawaii 2006, as
7 amended by Act 184, Session Laws of Hawaii 2007, section 11, is
8 amended by amending section 3 to read as follows:

9 "SECTION 3. This Act shall take effect on July 1, [~~2008~~]
10 2009."

11 PART IV.

12 SECTION 8. Practices and procedures relating to security
13 of laptops, removable data storage devices, and communication
14 devices. By December 31, 2008, the information privacy and
15 security council established under section 487N-A, Hawaii
16 Revised Statutes, in consultation with the information and
17 communications services division of the department of accounting
18 and general services, and the information technology division of
19 the respective counties, shall develop recommended practices and
20 procedures to provide guidance to information technology
21 managers in all government agencies relating to the security of
22 laptops, removable data storage devices, and communication



1 devices used to remotely access applications installed on state
2 or county networks. The council shall include recommendations
3 on best practices and standards for protecting personal
4 information that may be used with, stored on, or transmitted by
5 the foregoing devices.

6 PART V.

7 SECTION 9. Third party personal information use
8 contractual provisions. Effective September 1, 2008, any
9 government agency that contracts with third parties to provide
10 support services on behalf of the agency shall include, in all
11 new or renewed contracts, provisions to protect the use and
12 disclosure of personal information administered by the agency.

13 Provisions relating to personal information protection in
14 contractual agreements with third parties shall require:

15 (1) Implementation of technical safeguards acceptable to
16 the government agency to reduce exposure to
17 unauthorized access to personal information;

18 (2) Mandatory training on security awareness topics
19 relating to personal information protection for
20 employees of the third party;

21 (3) Confidentiality agreements to be signed by third party
22 employees acknowledging that:



- 1 (A) The personal information collected, used, or
2 maintained by the government agency is
3 confidential;
- 4 (B) Access to the personal information is restricted
5 to the minimum necessary; and
- 6 (C) Use of the personal information is restricted to
7 uses consistent with the services subject to the
8 contractual agreement;
- 9 (4) Clarification that no personal information shall be
10 retained or used for a purpose other than that for
11 which it was originally collected by the third party
12 and all copies of personal information records shall
13 be destroyed by the third party at the conclusion of
14 the contract;
- 15 (5) Prompt and complete disclosure of security breaches;
16 and
- 17 (6) A complete log of disclosures made of the government
18 agency personal information.

19 As used in this section, "technological safeguards" means
20 the technology and the policy and procedures for use of the
21 technology to protect and control access to personal
22 information.



1 PART VI.

2 SECTION 10. (a) Protection of personal information by
3 government agencies. No later than September 8, 2008, all
4 government agencies that collect, maintain, or disseminate
5 documents containing personal information that are subject to
6 disclosure pursuant to section 92F-12, Hawaii Revised Statutes,
7 shall develop and implement a plan to protect and redact
8 personal information, specifically social security numbers,
9 contained in any existing hardcopy document prior to making the
10 documents available for public inspection.

11 (b) Written report. Any government agency that fails to
12 develop and implement a plan to protect and redact personal
13 information by September 8, 2008, shall submit to the
14 legislature by September 30, 2008, a written report that details
15 information relating to any documents that contain social
16 security numbers that were disclosed pursuant to section 92F-12,
17 Hawaii Revised Statutes. The written report shall identify the
18 document disclosed, including the date, nature, and purpose of
19 each disclosure and the name and address of the person to whom
20 the disclosure was made. The written report shall not include
21 any disclosure made to the individual to whom the personal
22 information refers.



1 SECTION 11. Budgets. The proposed budget for the
2 development and implementation of the plan to protect and redact
3 personal information in existing, hardcopy records shall be
4 prepared by December 31, 2008, by each government agency, for
5 submittal as part of the respective executive, judiciary, and
6 legislative budgets.

7 PART VII.

8 SECTION 12. Plan to reduce collection and use of social
9 security numbers. No later than December 1, 2008, all
10 government agencies that collect, maintain, or disseminate
11 documents containing personal information that are subject to
12 disclosure pursuant to section 92F-12, Hawaii Revised Statutes,
13 shall develop a written plan to eliminate the unnecessary
14 collection and use of social security numbers.

15 Each plan shall include provisions to require:

- 16 (1) The collection and use of social security numbers only
17 when required by federal or state law;
- 18 (2) When required by state or federal law to collect
19 social security numbers, the agency to proceed as
20 reasonably necessary for the proper administration of
21 lawful agency business; and



1 benefits, time reporting and payroll issues. The recommended
2 practices shall address, at a minimum:

3 (1) Physical security standards for paper and electronic
4 records stored onsite and offsite, as well as for
5 removable storage media that includes laptop
6 computers, USB storage devices, compact discs, and
7 tapes;

8 (2) Administrative safeguards to control and monitor
9 access to human resources personal information
10 systems; and

11 (3) Technical safeguards to ensure the confidentiality and
12 integrity of information transmitted over computer
13 networks, laptop computers, and removable storage
14 devices.

15 (b) Definitions. For the purpose of this part:

16 "Administrative safeguards" means administrative actions,
17 policies, and procedures to manage the selection, development,
18 implementation, and maintenance of security measures to protect
19 personal information and to manage the conduct of the workforce
20 in relation to the protection of personal information.

21 "Physical safeguards" means physical measures, policies,
22 and procedures to protect personal information systems and



1 related buildings and equipment from natural and environmental
2 hazards and unauthorized intrusion.

3 PART IX.

4 SECTION 15. (a) Security breach notification policy. No
5 later than September 1, 2009, all government agencies shall
6 develop a written agency policy relating to notification of
7 security breach of personal information. The policy shall
8 ensure appropriate safeguards to protect personal information
9 and shall apply to electronic system and paper document records
10 that contain personal information.

11 The security breach notification policy for government
12 agencies shall consider guidelines established by the
13 information privacy and security council under section 487N-A
14 Hawaii Revised Statutes, and shall include provisions to
15 determine:

- 16 (1) Whether security breach notification is required;
- 17 (2) The timeliness of the notification;
- 18 (3) The source of the notification;
- 19 (4) The contents of the notification;
- 20 (5) Manner in which notification shall be provided; and
- 21 (6) Recipients of notification.



1 (b) Security breach notification policy review and
2 amendment. No later than September 1, 2009, all government
3 agencies shall submit their security breach notification policy
4 to the attorney general, appropriate corporation counsel, or
5 county attorney for review and comment. A government agency's
6 security breach notification policy shall be promptly amended to
7 incorporate revisions recommended by the attorney general,
8 corporation counsel, or county attorney after review of the
9 security breach notification policy.

10 Beginning December 31, 2010, government agencies shall
11 review their security breach notification policies by December
12 31 annually and make amendments as necessary. Information
13 relating to a government agency's security breach notification
14 policy, including any amendments, shall be disseminated to the
15 appropriate employees in each government agency.

16 PART X.

17 SECTION 16. Definitions. For purposes of this Act:

18 "Government agency" has the same meaning as in section
19 487N-1.

20 "Personal information" has the same meaning as in section
21 487N-1.



1 "Personal information system" means any manual or automated
2 recordkeeping process that contains personal information and the
3 name, personal number, or other identifying particulars of a
4 data subject.

5 "Records" has the same meaning as in section 487N-1.

6 "Security breach" has the same meaning as in section 487N-
7 1.

8 SECTION 17. In codifying the new sections added by
9 sections 2 and 4 of this Act, the revisor of statutes shall
10 substitute appropriate section numbers for the letters used in
11 designating the new sections in this Act.

12 PART XI.

13 SECTION 18. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 19. This Act shall take effect upon its approval;
16 provided that:

17 (1) Section 6 shall take effect on July 1, 2008; and

18 (2) Section 7 shall take effect on June 30, 2008.

19

INTRODUCED BY:

Handwritten signatures:
Helen Gerh
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Report Title:

Identity Theft; Personal Information; Government Agencies

Description:

Implements recommendations of the 12/2007 report of the Hawaii identity theft task force to protect the security of personal information collected and maintained by state and county government.

