

JAN 28 2015

A BILL FOR AN ACT

RELATING TO PERSONAL INFORMATION.

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

1 SECTION 1. Section 487N-1, Hawaii Revised Statutes, is
2 amended by amending the definition of "personal information" to
3 read as follows:

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

8 (1) Social security number;

9 (2) Driver's license number or Hawaii identification card
10 number; [e#]

11 (3) Account number, credit or debit card number, access
12 code, or password that would permit access to an
13 individual's financial account[-];

14 (4) Medical information, including but not limited to any
15 information regarding an individual's medical history,
16 mental or physical condition, or medical treatment or
17 diagnosis by a qualified health care professional;



1 (5) Health insurance information, including but not
2 limited to an individual's health insurance policy
3 number or subscriber identification number, any unique
4 identifier used by a health insurer to identify an
5 individual, or any information in an individual's
6 application and claims history, including any records
7 of appeal; or

8 (6) An online user name, email address, or social media
9 user name or other identifier of a social media
10 account that when used in combination with a password
11 or security question and answer would permit access to
12 an online 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 SECTION 2. Section 487N-2, Hawaii Revised Statutes, is
17 amended by amending subsections (a) to (e) to read:

18 "(a) Any business that owns or licenses personal
19 information of residents of Hawaii, any business that conducts
20 business in Hawaii that owns or licenses personal information in
21 any form (whether computerized, paper, or otherwise), or any



1 government agency that collects personal information for
2 specific government purposes shall provide notice to the
3 affected person that there has been a security breach following
4 discovery or notification of the breach. The disclosure
5 notification shall be made without unreasonable delay,
6 consistent with the legitimate needs of law enforcement as
7 provided in subsection (c) [~~of this section~~], and consistent
8 with any measures necessary to determine sufficient contact
9 information, determine the scope of the breach, and restore the
10 reasonable integrity, security, and confidentiality of the data
11 system. Notification shall be made no later than forty-five
12 days following the determination of the breach, unless provided
13 otherwise in this section.

14 (b) Any business located in Hawaii or any business that
15 conducts business in Hawaii that maintains or possesses records
16 or data containing personal information of residents of Hawaii
17 that the business does not own or license, or any government
18 agency that maintains or possesses records or data containing
19 personal information of residents of Hawaii shall notify the
20 owner or licensee of the information of any security breach
21 [~~immediately~~] no later than ten days following discovery of the



1 breach, consistent with the legitimate needs of law enforcement
2 as provided in subsection (c).

3 (c) The notice required by this section shall be delayed
4 if a law enforcement agency informs the business or government
5 agency that notification may impede a criminal investigation or
6 jeopardize national security and requests a delay; provided that
7 such request is made in writing, or the business or government
8 agency documents the request contemporaneously in writing,
9 including the name of the law enforcement officer making the
10 request and the officer's law enforcement agency engaged in the
11 investigation. The notice required by this section shall be
12 provided [~~without unreasonable delay~~] pursuant to subsection (a)
13 or (b) after the law enforcement agency communicates to the
14 business or government agency its determination that notice will
15 no longer impede the investigation or jeopardize national
16 security.

17 (d) The notice shall be clear and conspicuous. The notice
18 shall include a description of the following:

- 19 (1) The incident in general terms;
20 (2) The type of personal information that was subject to
21 the unauthorized access and acquisition;



- 1 (3) The general acts of the business or government agency
2 to protect the personal information from further
3 unauthorized access;
- 4 (4) A telephone number that the person may call for
5 further information and assistance, if one exists;
6 [and]
- 7 (5) Advice that directs the person to remain vigilant by
8 reviewing account statements and monitoring free
9 credit reports[-];
- 10 (6) If the information is possible to determine at the
11 time the notice is provided, then any of the
12 following:
- 13 (A) The date of the breach;
14 (B) The estimated or approximate date of the breach;
15 or
16 (C) The range of possible dates within which the
17 breach occurred.
- 18 (7) Whether law enforcement caused a delay in
19 notification, if the information is possible to
20 determine at the time the notice is provided; and



1 (8) If the breach exposed a civil identification card
2 number or social security number, the contact
3 information for major credit reporting agencies.

4 (e) For purposes of this section, notice to affected
5 persons may be provided by one of the following methods:

- 6 (1) Written notice to the last available address the
7 business or government agency has on record;
- 8 (2) Electronic mail notice, for those persons for whom a
9 business or government agency has a valid electronic
10 mail address and who have agreed to receive
11 communications electronically if the notice provided
12 is consistent with the provisions regarding electronic
13 records and signatures for notices legally required to
14 be in writing set forth in 15 U.S.C. section 7001;
15 provided that in the case of a security breach
16 involving personal information including or involving
17 the login credential of an email account, the business
18 or government agency shall not provide notification of
19 the breach to that email address and shall instead
20 provide notice by another method set forth in this
21 subsection;



- 1 (3) Telephonic notice, provided that contact is made
- 2 directly with the affected persons; and
- 3 (4) Substitute notice, if the business or government
- 4 agency demonstrates that the cost of providing notice
- 5 would exceed \$100,000 or that the affected class of
- 6 subject persons to be notified exceeds two hundred
- 7 thousand, or if the business or government agency does
- 8 not have sufficient contact information or consent to
- 9 satisfy paragraph (1), (2), or (3), for only those
- 10 affected persons without sufficient contact
- 11 information or consent, or if the business or
- 12 government agency is unable to identify particular
- 13 affected persons, for only those unidentifiable
- 14 affected persons. Substitute notice shall consist of
- 15 all the following:
- 16 (A) Electronic mail notice when the business or
- 17 government agency has an electronic mail address
- 18 for the subject persons;
- 19 (B) Conspicuous posting of the notice on the website
- 20 page of the business or government agency, if one
- 21 is maintained; and

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1 (C) Notification to major statewide media."
 2 SECTION 3. Statutory material to be repealed is bracketed
 3 and stricken. New statutory material is underscored.
 4 SECTION 4. This Act shall take effect on July 1, 2015.
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INTRODUCED BY: _____

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Report Title:

Personal Information; Security Breach; Notification

Description:

Expands definition of "personal information" and establishes or amends the timeline by which a business or government agency must notify persons affected by a security breach of personal information. Specifies additional information required in notification following certain security breaches. Prohibits the use of email as a means of notification of a security breach if login credentials for email were compromised.

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