

JAN 20 2023

A BILL FOR AN ACT

RELATING TO PRIVACY.

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

1 SECTION 1. The legislature finds that House Concurrent
2 Resolution No. 225, H.D. 1, S.D. 1, Regular Session of 2019,
3 convened the twenty-first century privacy law task force, whose
4 membership consisted of individuals in government and the
5 private sector having an interest or expertise in privacy law in
6 the digital era. The concurrent resolution found that public
7 use of the Internet and related technologies have significantly
8 expanded in recent years and that a lack of meaningful
9 government regulation has resulted in personal privacy being
10 compromised. Accordingly, the legislature requested that the
11 task force examine and make recommendations regarding existing
12 privacy laws and rules to protect the privacy interests of the
13 people of Hawaii.

14 The legislature further finds that, following significant
15 inquiry and discussion, the task force recommended that the
16 outdated definition of "personal information" in chapter 487N,
17 Hawaii Revised Statutes, which requires the public to be



1 notified of data breaches, should be updated and expanded. Many
2 identifying data elements relating to individuals are collected,
3 and, when exposed to the public in a data breach, can place an
4 individual at risk of identity theft or may compromise the
5 individual's personal safety. In its current form, chapter
6 487N, Hawaii Revised Statutes, is not comprehensive enough to
7 cover the additional identifiers.

8 Accordingly, the purpose of this Act is to update the
9 definition of "personal information" in chapter 487N, Hawaii
10 Revised Statutes, to include various personal identifiers and
11 data elements that are found in more comprehensive laws.

12 SECTION 2. Section 487N-1, Hawaii Revised Statutes, is
13 amended follows:

14 1. By adding two new definitions to be appropriately
15 inserted and to read:

16 "Identifier" means a common piece of information related
17 specifically to an individual that is commonly used to identify
18 the individual across technology platforms, including:

19 (1) A first name or initial, and last name;

20 (2) A user name for an online account;

21 (3) A mobile phone number; or



- 1 (4) An email address specific to the individual.
- 2 "Specified data element" means any of the following:
- 3 (1) An individual's social security number, either in its
4 entirety or the last four or more digits;
- 5 (2) Driver's license number, federal or state
6 identification card number, or passport number;
- 7 (3) A federal individual taxpayer identification number;
- 8 (4) An individual's financial account number, or credit or
9 debit card number;
- 10 (5) A security code, access code, personal identification
11 number, or password that would allow access to an
12 individual's account;
- 13 (6) Unique biometric data generated from a measurement or
14 analysis of human body characteristics used for
15 authentication purposes, such as a fingerprint, voice
16 print, retina or iris image, or other unique physical
17 or digital representation of biometric data;
- 18 (7) A private key that is unique to an individual and that
19 is used to authenticate or sign an electronic record;
20 and



1 (8) Health insurance policy number, subscriber
2 identification number, medical identification number,
3 or any other unique number used by a health insurer to
4 identify a person.

5 "Specified data element" does not include medical information
6 that is protected by the Health Insurance Portability and
7 Accountability Act of 1996 and its enacting regulations or other
8 applicable federal or state law."

9 2. By amending the definition of "personal information" to
10 read:

11 ~~"Personal information" means an [individual's first name or~~
12 ~~first initial and last name in combination with any one or more~~
13 ~~of the following data elements, when either the name or the data~~
14 ~~elements are not encrypted:~~

15 ~~(1) Social security number;~~

16 ~~(2) Driver's license number or Hawaii identification card~~
17 ~~number; or~~

18 ~~(3) Account number, credit or debit card number, access~~
19 ~~code, or password that would permit access to an~~
20 ~~individual's financial account.]~~



1 Identifier in combination with one or more specified data
2 elements. "Personal information" does not include publicly
3 available information that is lawfully made available to the
4 general public from federal, state, or local government
5 records."

6 SECTION 3. Section 487N-2, Hawaii Revised Statutes, is
7 amended by amending subsection (g) to read as follows:

8 "(g) The following businesses shall be deemed to be in
9 compliance with this section:

10 (1) A financial institution that is subject to the federal
11 Interagency Guidance on Response Programs for
12 Unauthorized Access to Customer Information and
13 Customer Notice published in the Federal Register on
14 March 29, 2005, by the Board of Governors of the
15 Federal Reserve System, the Federal Deposit Insurance
16 Corporation, the Office of the Comptroller of the
17 Currency, and the Office of Thrift Supervision, or
18 subject to 12 C.F.R. Part 748, and any revisions,
19 additions, or substitutions relating to the
20 interagency guidance; [~~and~~]



1 (2) Any health plan or healthcare provider that is subject
2 to and in compliance with the standards for privacy or
3 individually identifiable health information and the
4 security standards for the protection of electronic
5 health information of the Health Insurance Portability
6 and Accountability Act of 1996 [-]; and

7 (3) Any licensee that is subject to the Insurance Data
8 Security Law pursuant to article 3B, chapter 431."

9 SECTION 4. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun before its effective date.

12 SECTION 5. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 6. This Act shall take effect upon its approval.

15

INTRODUCED BY: 



S.B. NO. 1178

Report Title:

Privacy; Attorney General; Personal Information; Notice

Description:

Modernizes the definition of "personal information" for the purposes of notifying affected persons of data and security breaches.

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