



Sen. Dan McConchie

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1 AMENDMENT TO SENATE BILL 2301

2 AMENDMENT NO. _____. Amend Senate Bill 2301 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Personal Information Protection Act is
5 amended by changing Section 12 as follows:

6 (815 ILCS 530/12)

7 Sec. 12. Notice of breach; State agency.

8 (a) Any State agency that collects personal information
9 concerning an Illinois resident shall notify the resident at no
10 charge that there has been a breach of the security of the
11 system data or written material following discovery or
12 notification of the breach. The disclosure notification shall
13 be made in the most expedient time possible and without
14 unreasonable delay, consistent with any measures necessary to
15 determine the scope of the breach and restore the reasonable
16 integrity, security, and confidentiality of the data system.

1 The disclosure notification to an Illinois resident shall
2 include, but need not be limited to information as follows:

3 (1) With respect to personal information defined in
4 Section 5 in paragraph (1) of the definition of "personal
5 information":

6 (i) the toll-free numbers and addresses for
7 consumer reporting agencies;

8 (ii) the toll-free number, address, and website
9 address for the Federal Trade Commission; and

10 (iii) a statement that the individual can obtain
11 information from these sources about fraud alerts and
12 security freezes.

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

23 The notification shall not, however, include information
24 concerning the number of Illinois residents affected by the
25 breach.

26 (a-5) The notification to an Illinois resident required by

1 subsection (a) of this Section may be delayed if an appropriate
2 law enforcement agency determines that notification will
3 interfere with a criminal investigation and provides the State
4 agency with a written request for the delay. However, the State
5 agency must notify the Illinois resident as soon as
6 notification will no longer interfere with the investigation.

7 (b) For purposes of this Section, notice to residents may
8 be provided by one of the following methods:

9 (1) written notice;

10 (2) electronic notice, if the notice provided is
11 consistent with the provisions regarding electronic
12 records and signatures for notices legally required to be
13 in writing as set forth in Section 7001 of Title 15 of the
14 United States Code; or

15 (3) substitute notice, if the State agency
16 demonstrates that the cost of providing notice would exceed
17 \$250,000 or that the affected class of subject persons to
18 be notified exceeds 500,000, or the State agency does not
19 have sufficient contact information. Substitute notice
20 shall consist of all of the following: (i) email notice if
21 the State agency has an email address for the subject
22 persons; (ii) conspicuous posting of the notice on the
23 State agency's web site page if the State agency maintains
24 one; and (iii) notification to major statewide media.

25 (c) Notwithstanding subsection (b), a State agency that
26 maintains its own notification procedures as part of an

1 information security policy for the treatment of personal
2 information and is otherwise consistent with the timing
3 requirements of this Act shall be deemed in compliance with the
4 notification requirements of this Section if the State agency
5 notifies subject persons in accordance with its policies in the
6 event of a breach of the security of the system data or written
7 material.

8 (d) If a State agency is required to notify more than 1,000
9 persons of a breach of security pursuant to this Section, the
10 State agency shall also notify, without unreasonable delay, all
11 consumer reporting agencies that compile and maintain files on
12 consumers on a nationwide basis, as defined by 15 U.S.C.
13 Section 1681a(p), of the timing, distribution, and content of
14 the notices. Nothing in this subsection (d) shall be construed
15 to require the State agency to provide to the consumer
16 reporting agency the names or other personal identifying
17 information of breach notice recipients.

18 (e) Notice to Attorney General. Any State agency that
19 suffers a single breach of the security of the data concerning
20 the personal information of more than 250 Illinois residents
21 shall provide notice to the Attorney General of the breach,
22 including:

23 (A) The types of personal information compromised in
24 the breach.

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

1 (C) Any steps the State agency has taken or plans to
2 take relating to notification of the breach to consumers.

3 (D) The date and timeframe of the breach, if known at
4 the time notification is provided.

5 Such notification must be made within 45 days of the State
6 agency's discovery of the security breach or when the State
7 agency provides any notice to consumers required by this
8 Section, whichever is sooner, unless the State agency has good
9 cause for reasonable delay to determine the scope of the breach
10 and restore the integrity, security, and confidentiality of the
11 data system, or when law enforcement requests in writing to
12 withhold disclosure of some or all of the information required
13 in the notification under this Section. If the date or
14 timeframe of the breach is unknown at the time the notice is
15 sent to the Attorney General, the State agency shall send the
16 Attorney General the date or timeframe of the breach as soon as
17 possible.

18 (f) In addition to the report required by Section 25 of
19 this Act, if the State agency that suffers a breach determines
20 the identity of the actor who perpetrated the breach, then the
21 State agency shall report this information, within 5 days after
22 the determination, to the General Assembly, provided that such
23 report would not jeopardize the security of Illinois residents
24 or compromise a security investigation.

25 (g) A State agency directly responsible to the Governor
26 that has been subject to or has reason to believe it has been

1 subject to a single breach of the security of the data
2 concerning the personal information of more than 250 Illinois
3 residents or an instance of aggravated computer tampering, as
4 defined in Section 17-53 of the Criminal Code of 2012, shall
5 notify the Office of the Chief Information Security Officer of
6 the Illinois Department of Innovation and Technology and the
7 Attorney General regarding the breach or instance of aggravated
8 computer tampering. The notification shall be made without
9 delay, but no later than 72 hours following the discovery of
10 the incident.

11 Upon receiving notification of such incident, the Chief
12 Information Security Officer shall without delay take
13 necessary and reasonable actions to:

14 (i) assess the incident to determine the potential
15 impact on the overall confidentiality, security, and
16 availability of State of Illinois data and information
17 systems;

18 (ii) ensure the security incident is contained to
19 minimize additional impact and risk to the State;

20 (iii) identify the root cause of the incident;

21 (iv) provide recommendations to the impacted State
22 agency to assist with eradicating the threat and removing
23 and mitigating any vulnerabilities to reduce the risk of
24 further compromise; and

25 (v) assist the impacted State agency in any necessary
26 recovery efforts to ensure effective return to a state of

1 normal operations.

2 The Department of Innovation and Technology may agree to
3 submit the reports required in subsections (e) and (f) of this
4 Section and in Section 25 in lieu of the impacted agency.

5 (h) Upon receiving notification from a State agency of a
6 breach of personal information or from the Department of
7 Innovation and Technology in lieu of the impacted agency, the
8 Attorney General may publish the name of the State agency that
9 suffered the breach, the types of personal information
10 compromised in the breach, and the date range of the breach.

11 (i) A State agency that is required to provide notification
12 of a breach of security under subsection (a) shall offer, at no
13 charge to the affected resident, credit monitoring for 12
14 months from the date of the notification to residents of the
15 State whose personal information has been breached. A State
16 agency may procure credit monitoring services by (1) procuring
17 credit monitoring services through a contract with the agency,
18 (2) procuring credit monitoring services pursuant to an
19 intergovernmental agreement with one or more other State
20 agencies entering into a master contract for credit monitoring
21 services, or (3) procuring cyber security insurance coverage
22 through the Department of Innovation and Technology. If a State
23 agency does not have sufficient appropriation authority to pay
24 for credit monitoring, the 12-month period does not begin until
25 sufficient appropriation authority is obtained. A State agency
26 shall immediately notify the Governor, the Governor's Office of

1 Management and Budget, the Commission on Government
2 Forecasting and Accountability, and the General Assembly of the
3 need for additional appropriation authority to pay for the
4 costs of credit monitoring.

5 (Source: P.A. 99-503, eff. 1-1-17; 100-412, eff. 8-25-17.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law."