

By: McCall

H.B. No. 2004

A BILL TO BE ENTITLED

AN ACT

relating to a breach of computer security involving sensitive personal information and to the protection of sensitive personal information and certain protected health information.

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

SECTION 1. Section 521.002(a)(2), Business & Commerce Code, as effective April 1, 2009, is amended to read as follows:

(2) "Sensitive personal information" means, subject to Subsection (b):

(A) ~~an~~ an individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:

(i) ~~(A)~~ social security number;

(ii) ~~(B)~~ driver's license number or government-issued identification number; or

(iii) ~~(C)~~ account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; or

(B) information that identifies an individual and relates to:

(i) the physical or mental health or condition of the individual;

(ii) the provision of health care to the

1 individual; or

2 (iii) payment for the provision of health
3 care to the individual.

4 SECTION 2. Section 521.052, Business & Commerce Code, is
5 amended by adding Subsection (d) to read as follows:

6 (d) As used in this section, "business" includes a nonprofit
7 athletic or sports association.

8 SECTION 3. Section 521.053(a), Business & Commerce Code, as
9 effective April 1, 2009, is amended to read as follows:

10 (a) In this section, "breach of system security" means
11 unauthorized acquisition of computerized data that compromises the
12 security, confidentiality, or integrity of sensitive personal
13 information maintained by a person, including data that is
14 encrypted if the person accessing the data has the key required to
15 decrypt the data. Good faith acquisition of sensitive personal
16 information by an employee or agent of the person for the purposes
17 of the person is not a breach of system security unless the person
18 uses or discloses the sensitive personal information in an
19 unauthorized manner.

20 SECTION 4. Subchapter F, Chapter 2054, Government Code, is
21 amended by adding Section 2054.1125 to read as follows:

22 Sec. 2054.1125. SECURITY BREACH NOTIFICATION BY STATE
23 AGENCY. (a) In this section:

24 (1) "Breach of system security" has the meaning
25 assigned by Section 521.053, Business & Commerce Code.

26 (2) "Sensitive personal information" has the meaning
27 assigned by Section 521.002, Business & Commerce Code.

1 (b) A state agency that owns, licenses, or maintains
2 computerized data that includes sensitive personal information
3 shall comply, in the event of a breach of system security, with the
4 notification requirements of Section 521.053, Business & Commerce
5 Code, to the same extent as a person who conducts business in this
6 state.

7 SECTION 5. Subchapter A, Chapter 181, Health and Safety
8 Code, is amended by adding Section 181.006 to read as follows:

9 Sec. 181.006. PROTECTED HEALTH INFORMATION NOT PUBLIC. For
10 a covered entity that is a governmental unit, an individual's
11 protected health information:

12 (1) includes any information that reflects that an
13 individual received health care from the covered entity; and

14 (2) is not public information and is not subject to
15 disclosure under Chapter 552, Government Code.

16 SECTION 6. Chapter 205, Local Government Code, is amended
17 by adding Section 205.010 to read as follows:

18 Sec. 205.010. SECURITY BREACH NOTIFICATION BY LOCAL
19 GOVERNMENT. (a) In this section:

20 (1) "Breach of system security" has the meaning
21 assigned by Section 521.053, Business & Commerce Code.

22 (2) "Sensitive personal information" has the meaning
23 assigned by Section 521.002, Business & Commerce Code.

24 (b) A local government that owns, licenses, or maintains
25 computerized data that includes sensitive personal information
26 shall comply, in the event of a breach of system security, with the
27 notification requirements of Section 521.053, Business & Commerce

1 Code, to the same extent as a person who conducts business in this
2 state.

3 SECTION 7. The changes in law made by this Act apply only to
4 a breach of system security that occurs on or after the effective
5 date of this Act. A breach of system security that occurs before the
6 effective date of this Act is governed by the law in effect on the
7 date the breach occurred, and the former law is continued in effect
8 for that purpose.

9 SECTION 8. This Act takes effect September 1, 2009.