

1-1 By: McCall (Senate Sponsor - Ellis) H.B. No. 2004
1-2 (In the Senate - Received from the House April 29, 2009;
1-3 May 1, 2009, read first time and referred to Committee on
1-4 Government Organization; May 13, 2009, reported favorably by the
1-5 following vote: Yeas 6, Nays 0; May 13, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to a breach of computer security involving sensitive
1-9 personal information and to the protection of sensitive personal
1-10 information and certain protected health information.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 521.002(a)(2), Business & Commerce Code,
1-13 as effective April 1, 2009, is amended to read as follows:

1-14 (2) "Sensitive personal information" means, subject
1-15 to Subsection (b):

1-16 (A) [7] an individual's first name or first
1-17 initial and last name in combination with any one or more of the
1-18 following items, if the name and the items are not encrypted:

1-19 (i) [~~A~~] social security number;

1-20 (ii) [~~B~~] driver's license number or
1-21 government-issued identification number; or

1-22 (iii) [~~C~~] account number or credit or
1-23 debit card number in combination with any required security code,
1-24 access code, or password that would permit access to an
1-25 individual's financial account; or

1-26 (B) information that identifies an individual
1-27 and relates to:

1-28 (i) the physical or mental health or
1-29 condition of the individual;

1-30 (ii) the provision of health care to the
1-31 individual; or

1-32 (iii) payment for the provision of health
1-33 care to the individual.

1-34 SECTION 2. Section 521.052, Business & Commerce Code, is
1-35 amended by adding Subsection (d) to read as follows:

1-36 (d) As used in this section, "business" includes a nonprofit
1-37 athletic or sports association.

1-38 SECTION 3. Section 521.053(a), Business & Commerce Code, as
1-39 effective April 1, 2009, is amended to read as follows:

1-40 (a) In this section, "breach of system security" means
1-41 unauthorized acquisition of computerized data that compromises the
1-42 security, confidentiality, or integrity of sensitive personal
1-43 information maintained by a person, including data that is
1-44 encrypted if the person accessing the data has the key required to
1-45 decrypt the data. Good faith acquisition of sensitive personal
1-46 information by an employee or agent of the person for the purposes
1-47 of the person is not a breach of system security unless the person
1-48 uses or discloses the sensitive personal information in an
1-49 unauthorized manner.

1-50 SECTION 4. Subchapter F, Chapter 2054, Government Code, is
1-51 amended by adding Section 2054.1125 to read as follows:

1-52 Sec. 2054.1125. SECURITY BREACH NOTIFICATION BY STATE
1-53 AGENCY. (a) In this section:

1-54 (1) "Breach of system security" has the meaning
1-55 assigned by Section 521.053, Business & Commerce Code.

1-56 (2) "Sensitive personal information" has the meaning
1-57 assigned by Section 521.002, Business & Commerce Code.

1-58 (b) A state agency that owns, licenses, or maintains
1-59 computerized data that includes sensitive personal information
1-60 shall comply, in the event of a breach of system security, with the
1-61 notification requirements of Section 521.053, Business & Commerce
1-62 Code, to the same extent as a person who conducts business in this
1-63 state.

1-64 SECTION 5. Subchapter A, Chapter 181, Health and Safety

2-1 Code, is amended by adding Section 181.006 to read as follows:
2-2 Sec. 181.006. PROTECTED HEALTH INFORMATION NOT PUBLIC. For
2-3 a covered entity that is a governmental unit, an individual's
2-4 protected health information:

2-5 (1) includes any information that reflects that an
2-6 individual received health care from the covered entity; and

2-7 (2) is not public information and is not subject to
2-8 disclosure under Chapter 552, Government Code.

2-9 SECTION 6. Chapter 205, Local Government Code, is amended
2-10 by adding Section 205.010 to read as follows:

2-11 Sec. 205.010. SECURITY BREACH NOTIFICATION BY LOCAL
2-12 GOVERNMENT. (a) In this section:

2-13 (1) "Breach of system security" has the meaning
2-14 assigned by Section 521.053, Business & Commerce Code.

2-15 (2) "Sensitive personal information" has the meaning
2-16 assigned by Section 521.002, Business & Commerce Code.

2-17 (b) A local government that owns, licenses, or maintains
2-18 computerized data that includes sensitive personal information
2-19 shall comply, in the event of a breach of system security, with the
2-20 notification requirements of Section 521.053, Business & Commerce
2-21 Code, to the same extent as a person who conducts business in this
2-22 state.

2-23 SECTION 7. The changes in law made by this Act apply only to
2-24 a breach of system security that occurs on or after the effective
2-25 date of this Act. A breach of system security that occurs before the
2-26 effective date of this Act is governed by the law in effect on the
2-27 date the breach occurred, and the former law is continued in effect
2-28 for that purpose.

2-29 SECTION 8. This Act takes effect September 1, 2009.

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