

By: Paxton

H.B. No. 3904

A BILL TO BE ENTITLED

AN ACT

relating to personal confidential information accessed by an employee of a state governmental body; imposing penalties.

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

SECTION 1. Section 552.023, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A person or a person's authorized representative that has a special right of access to information under Subsection (a) must provide evidence satisfactory to the officer for public information of the governmental body that the person has the special right of access to that information.

SECTION 2. Chapter 559, Government Code, is amended by designating Sections 559.001, 559.002, 559.003, 559.004, and 559.005 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. REQUIRED NOTICES REGARDING INFORMATION COLLECTED BY A STATE GOVERNMENTAL BODY

SECTION 3. Section 559.001, Government Code, is amended to read as follows:

Sec. 559.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Personal confidential information" includes a person's:

(A) photograph or computerized image;

(B) social security number;



1 governmental body who may access personal confidential  
2 information;

3 (2) establishing procedures to authorize an employee  
4 of the state governmental body to access personal confidential  
5 information;

6 (3) maintaining a list of reasons that an employee of  
7 the state governmental body may access personal confidential  
8 information;

9 (4) maintaining a list of each employee of the state  
10 governmental body who accesses personal confidential information;  
11 and

12 (5) making available to each employee of the state  
13 governmental body copies of the laws of this state and federal law  
14 that regulate the dissemination of personal confidential  
15 information.

16 Sec. 559.012. DIRECTOR OF PRIVACY. (a) Each state  
17 governmental body shall designate an employee as the director of  
18 privacy.

19 (b) The director of privacy shall develop and publish an  
20 evaluation of the risks and effects of collecting and maintaining  
21 personal confidential information by the state governmental body.

22 (c) The director of privacy shall work with the attorney  
23 general to prevent unauthorized access to personal confidential  
24 information collected or maintained by the state governmental body.

25 Sec. 559.013. PERSONAL CONFIDENTIAL INFORMATION POLICY.

26 (a) A state employee who engages in conduct constituting an offense  
27 under Section 559.017 or a policy adopted under Subsection (c) is

1 subject to termination of the employee's state employment or  
2 another employment-related sanction.

3 (b) Each state governmental body shall:

4 (1) adopt a written personal confidential information  
5 policy for the state governmental body's employees consistent with  
6 the standards prescribed by provisions of this subchapter;

7 (2) distribute a copy of the personal confidential  
8 information policy and this subchapter to:

9 (A) each new employee not later than the third  
10 business day after the date the person begins employment with the  
11 state governmental body; and

12 (B) each new officer not later than the third  
13 business day after the date the person qualifies for office;

14 (3) provide appropriate training concerning the  
15 personal confidential information policy, in accordance with rules  
16 adopted by the attorney general, to employees and officers;

17 (4) post a copy of the personal confidential  
18 information policy next to the sign that the state governmental  
19 body posts under Section 552.205; and

20 (5) make available on the state governmental body's  
21 Internet website a copy of the personal confidential information  
22 policy.

23 (c) The office of the attorney general shall develop and  
24 distribute a model policy that a state governmental body may use in  
25 adopting a state governmental body personal confidential  
26 information policy under Subsection (b). A state governmental  
27 body is not required to adopt the model policy developed under this

1 subsection.

2 (d) Not later than November 1, 2009, the office of the  
3 attorney general shall:

4 (1) develop a model personal confidential information  
5 policy as required by Subsection (c); and

6 (2) distribute the policy to each state governmental  
7 body required to adopt a policy under Subsection (b).

8 (e) Not later than January 1, 2010, each state governmental  
9 body shall:

10 (1) adopt a policy as required by Subsection (b); and

11 (2) distribute a copy of that policy and this  
12 subchapter to each employee of the state governmental body.

13 (f) Subsections (d) and (e) and this subsection expire  
14 September 1, 2011.

15 Sec. 559.014. PROTECTION OF INFORMATION. (a) Each state  
16 governmental body shall require passwords to access personal  
17 confidential information that is maintained in an electronic  
18 format.

19 (b) Each state agency shall secure personal confidential  
20 information that is maintained as a paper record.

21 Sec. 559.015. NOTIFICATION REQUIRED FOLLOWING UNAUTHORIZED  
22 ACCESS TO CONFIDENTIAL PERSONAL INFORMATION. A state governmental  
23 body shall promptly disclose any unauthorized access to personal  
24 confidential information to any individual whose personal  
25 confidential information was accessed.

26 Sec. 559.016. CIVIL REMEDY. A person who knowingly  
27 accesses personal confidential information collected or maintained

1 by a state governmental body and is not authorized to access that  
2 information under the policies of the state governmental body is  
3 liable to a person injured or damaged by the access to the  
4 information or a resulting disclosure of the information for:

5 (1) actual damages, including damages for personal  
6 injury or damage, lost wages, defamation, or mental or other  
7 emotional distress;

8 (2) reasonable attorney's fees and court costs; and

9 (3) exemplary damages as provided by Chapter 41, Civil  
10 Practice and Remedies Code.

11 Sec. 559.017. CRIMINAL PENALTY. (a) A person commits an  
12 offense if the person knowingly accesses personal confidential  
13 information collected or maintained by a state governmental body  
14 that the person is not authorized to access under the policies of  
15 the state governmental body.

16 (b) An officer or employee of a state governmental body  
17 commits an offense if the officer or employee knowingly:

18 (1) accesses personal confidential information  
19 collected or maintained by a state governmental body for a purpose  
20 other than the purpose for which the information was collected and  
21 for a purpose unrelated to the law that permitted the officer or  
22 employee to obtain authorization to access the information;

23 (2) permits inspection of the personal confidential  
24 information by a person who is not authorized to inspect the  
25 information; or

26 (3) discloses the personal confidential information  
27 to a person who is not authorized to receive the information.

1       (c) For purposes of Subsection (b), a member of an advisory  
2 committee to a state governmental body who obtains access to  
3 confidential information in that capacity is considered to be an  
4 officer or employee of the state governmental body.

5       (d) An offense under this section is a Class A misdemeanor.

6       (e) A violation under this section constitutes official  
7 misconduct.

8       Sec. 559.018. CERTAIN INFORMATION MAINTAINED BY THE  
9 COMPTROLLER. (a) The comptroller by rule shall develop and  
10 implement a system that records each time an employee accesses any  
11 database system that is created or for which the comptroller  
12 contracts that relates to taxes collected by the comptroller.

13       (b) The comptroller shall use the information collected  
14 under Subsection (a) to determine if an employee of the comptroller  
15 accesses a database which the employee does not have authorization  
16 to access.

17       Sec. 559.019. ROLE OF ATTORNEY GENERAL. (a) The attorney  
18 general shall:

19           (1) review each state governmental body's policies  
20 regarding confidential personal information; and

21           (2) enforce this subchapter.

22       (b) The attorney general may submit a report to the  
23 legislature that contains recommendations regarding the personal  
24 confidential information that state governmental bodies collect  
25 and maintain.

26       SECTION 6. This Act takes effect immediately if it receives  
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this  
2 Act does not receive the vote necessary for immediate effect, this  
3 Act takes effect September 1, 2009.