

1-1 By: Ellis S.B. No. 1884
1-2 (In the Senate - Filed March 11, 2009; March 24, 2009, read
1-3 first time and referred to Committee on Government Organization;
1-4 April 23, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 23, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1884 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to a breach of computer security involving sensitive
1-11 personal information and the confidentiality of protected health
1-12 information.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subdivision (2), Subsection (a), Section
1-15 521.002, Business & Commerce Code, as effective April 1, 2009, is
1-16 amended to read as follows:

1-17 (2) "Sensitive personal information" means, subject
1-18 to Subsection (b):

1-19 (A) ~~(A)~~ ~~(A)~~ an individual's first name or first
1-20 initial and last name in combination with any one or more of the
1-21 following items, if the name and the items are not encrypted:

1-22 (i) ~~(A)~~ social security number;

1-23 (ii) ~~(B)~~ driver's license number or
1-24 government-issued identification number; or

1-25 (iii) ~~(C)~~ account number or credit or
1-26 debit card number in combination with any required security code,
1-27 access code, or password that would permit access to an
1-28 individual's financial account; or

1-29 (B) information that identifies an individual
1-30 and relates to:

1-31 (i) the physical or mental health or
1-32 condition of the individual;

1-33 (ii) the provision of health care to the
1-34 individual; or

1-35 (iii) payment for the provision of health
1-36 care to the individual.

1-37 SECTION 2. Subsection (a), Section 521.053, Business &
1-38 Commerce Code, as effective April 1, 2009, is amended to read as
1-39 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 3. 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.

2-1 SECTION 4. Subchapter A, Chapter 181, Health and Safety
2-2 Code, is amended by adding Section 181.006 to read as follows:

2-3 Sec. 181.006. PROTECTED HEALTH INFORMATION NOT PUBLIC. For
2-4 a covered entity that is a governmental unit, an individual's
2-5 protected health information:

2-6 (1) includes any information that reflects that an
2-7 individual received health care from the covered entity; and

2-8 (2) is not public information and is not subject to
2-9 disclosure under Chapter 552, Government Code.

2-10 SECTION 5. Chapter 205, Local Government Code, is amended
2-11 by adding Section 205.010 to read as follows:

2-12 Sec. 205.010. SECURITY BREACH NOTIFICATION BY LOCAL
2-13 GOVERNMENT. (a) In this section:

2-14 (1) "Breach of system security" has the meaning
2-15 assigned by Section 521.053, Business & Commerce Code.

2-16 (2) "Sensitive personal information" has the meaning
2-17 assigned by Section 521.002, Business & Commerce Code.

2-18 (b) A local government that owns, licenses, or maintains
2-19 computerized data that includes sensitive personal information
2-20 shall comply, in the event of a breach of system security, with the
2-21 notification requirements of Section 521.053, Business & Commerce
2-22 Code, to the same extent as a person who conducts business in this
2-23 state.

2-24 SECTION 6. The changes in law made by this Act apply only to
2-25 a breach of system security that occurs on or after the effective
2-26 date of this Act. A breach of system security that occurs before
2-27 the effective date of this Act is governed by the law in effect on
2-28 the date the breach occurred, and the former law is continued in
2-29 effect for that purpose.

2-30 SECTION 7. This Act takes effect September 1, 2009.

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