

AN ACT

relating to prohibiting the reidentification of certain deidentified information and the release of reidentified information; creating a criminal offense; providing a civil penalty.

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

SECTION 1. Subtitle A, Title 11, Business & Commerce Code, is amended by adding Chapter 506 to read as follows:

CHAPTER 506. REIDENTIFICATION OF DEIDENTIFIED INFORMATION

Sec. 506.001. DEFINITIONS. In this chapter:

(1) "Covered information" means deidentified information released by a board, commission, department, or other agency of this state, including an institution of higher education as defined by Section 61.003, Education Code, or a hospital that is maintained or operated by the state.

(2) "Deidentified information" means information with respect to which the holder of the information has made a good faith effort to remove all personal identifying information or other information that may be used by itself or in combination with other information to identify the subject of the information. The term includes aggregate statistics, redacted information, information for which random or fictitious alternatives have been substituted for personal identifying information, and information for which personal identifying information has been encrypted and for which

1 the encryption key is maintained by a person otherwise authorized
2 to have access to the information in an identifiable format.

3 (3) "Personal identifying information" has the
4 meaning assigned by Section 521.002(a)(1).

5 Sec. 506.002. REQUIRED NOTICES. (a) An agency of this
6 state shall provide written notice to a person to whom the agency
7 releases deidentified information that the information is
8 deidentified information.

9 (b) A person who sells covered information or otherwise
10 receives compensation for the transfer or disclosure of covered
11 information shall provide written notice to the person to whom the
12 information is sold, transferred, or disclosed that the information
13 is deidentified information obtained from an agency of this state.

14 Sec. 506.003. PROHIBITED ACTS. (a) A person may not:

15 (1) reidentify or attempt to reidentify personal
16 identifying information about an individual who is the subject of
17 covered information; or

18 (2) knowingly disclose or release covered information
19 that was reidentified in violation of this section.

20 (b) It is a defense to a civil action or prosecution for a
21 violation of this section that:

22 (1) the person:

23 (A) was reidentifying the covered information
24 for the purpose of a study or other scholarly research, including
25 performing an evaluation or test of software intended to deidentify
26 information; and

27 (B) did not release or publish the names or other

1 information identifying any subjects of the reidentified covered
2 information; or

3 (2) the person obtained informed, written consent from
4 the individual who is the subject of the covered information that
5 specifically referenced the information to be reidentified,
6 disclosed, or released, and authorized the reidentification,
7 disclosure, or release of that information.

8 Sec. 506.004. OFFENSE. (a) A person who violates Section
9 506.003 commits an offense.

10 (b) An offense under this section is a Class A misdemeanor.

11 Sec. 506.005. PRIVATE CAUSE OF ACTION. A person who
12 violates Section 506.003 is liable to the individual who is the
13 subject of the covered information for statutory damages in an
14 amount of not less than \$25 or more than \$500 for each violation,
15 not to exceed a total amount of \$150,000.

16 Sec. 506.006. CIVIL PENALTY. (a) In addition to other
17 penalties and remedies assessed or recovered under this chapter, a
18 person who violates Section 506.003 is liable to this state for a
19 civil penalty in an amount of not less than \$25 or more than \$500 for
20 each violation, not to exceed a total amount of \$150,000.

21 (b) The attorney general may bring an action to recover a
22 civil penalty under this section.

23 (c) The attorney general is entitled to recover reasonable
24 expenses incurred in bringing an action under this section,
25 including reasonable attorney's fees, court costs, and
26 investigatory costs.

27 SECTION 2. The change in law made by this Act applies to

1 conduct that occurs on or after the effective date of this Act.
2 Conduct that occurs before the effective date of this Act is
3 governed by the law in effect on the date the conduct occurred, and
4 the former law is continued in effect for that purpose.

5 SECTION 3. This Act takes effect September 1, 2015.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1213 passed the Senate on April 20, 2015, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 29, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1213 passed the House, with amendment, on May 26, 2015, by the following vote: Yeas 142, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor