

By: Kolkhorst  
(Oliveira)

S.B. No. 1213

Substitute the following for S.B. No. 1213:

By: Oliveira

C.S.S.B. No. 1213

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to prohibiting the reidentification of certain  
3 deidentified information and the release of reidentified  
4 information; creating a criminal offense; providing a civil  
5 penalty.

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

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

9 CHAPTER 506. REIDENTIFICATION OF DEIDENTIFIED INFORMATION

10 Sec. 506.001. DEFINITIONS. In this chapter:

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

16 (2) "Deidentified information" means information with  
17 respect to which the holder of the information has made a good faith  
18 effort to remove all personal identifying information or other  
19 information that may be used by itself or in combination with other  
20 information to identify the subject of the information. The term  
21 includes aggregate statistics, redacted information, information  
22 for which random or fictitious alternatives have been substituted  
23 for personal identifying information, and information for which  
24 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.