

**House Bill 4390**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 521.053, Business & Commerce Code, is amended by amending Subsection (b) and adding Subsection (i) to read as follows:

(b) A person who conducts business in this state and owns or licenses computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any individual whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made without unreasonable delay and in each case not later than the 60th day after the date on which the person determines that the breach occurred [~~as quickly as possible~~], except as provided by Subsection (d) or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(i) A person who is required to disclose or provide notification of a breach of system security under this section shall notify the attorney general of that breach not later than the 60th day after the date on which the person determines that the breach occurred if the breach involves at least 250 residents of this state. The notification under this subsection must include:

(1) a detailed description of the nature and circumstances of the breach or the use of sensitive personal information acquired as a result of the breach;

(2) the number of residents of this state affected by the breach at the time of notification;

(3) the measures taken by the person regarding the breach;

(4) any measures the person intends to take regarding the breach after the notification under this subsection; and

SENATE VERSION (CS)

SECTION 1. Same as House version.

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(5) information regarding whether law enforcement is engaged in investigating the breach.

SECTION 2. (a) In this section, "council" means the Texas Privacy Protection Advisory Council created under this section.

(b) The Texas Privacy Protection Advisory Council is created to study data privacy laws in this state, other states, and relevant foreign jurisdictions.

(c) The council is composed of members who are residents of this state and appointed as follows:

(1) five members appointed by the speaker of the house of representatives, two of whom must be representatives of an industry listed under Subsection (d) of this section and three of whom must be members of the house of representatives;

(2) five members appointed by the lieutenant governor, two of whom must be representatives of an industry listed under Subsection (d) of this section and three of whom must be senators; and

(3) five members appointed by the governor, three of whom must be representatives of an industry listed under Subsection (d) of this section and two of whom must be either:

(A) a representative of a nonprofit organization that studies or evaluates data privacy laws from the perspective of individuals whose information is collected or processed by businesses; or

(B) a professor who teaches at a law school in this state or other institution of higher education, as defined by Section 61.003, Education Code, and whose books or scholarly articles on the topic of data privacy have been published.

SENATE VERSION (CS)

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(A) a representative of a nonprofit organization that studies or evaluates data privacy laws from the perspective of individuals whose information is collected or processed by businesses; or

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(d) For purposes of making appointments of members who represent industries under Subsection (c) of this section, the speaker of the house of representatives, lieutenant governor, and governor shall appoint members from among the following industries and must coordinate their appointments to avoid overlap in representation of the industries:

- (1) medical profession;
- (2) technology;
- (3) Internet;
- (4) retail and electronic transactions;
- (5) consumer banking;
- (6) telecommunications;
- (7) consumer data analytics;
- (8) advertising;
- (9) Internet service providers;
- (10) social media platforms;
- (11) cloud data storage; or
- (12) virtual private networks.

(e) The speaker of the house of representatives and the lieutenant governor shall each designate a co-chair from among their respective appointments to the council who are members of the legislature.

(f) The council shall convene on a regular basis at the joint call of the co-chairs.

(g) The council shall:

- (1) study and evaluate the laws in this state, other states, and relevant foreign jurisdictions that govern the privacy and protection of information that alone or in conjunction with other information identifies or is linked or reasonably linkable to a specific individual, technological device, or household; and

SENATE VERSION (CS)

(d) For purposes of making appointments of members who represent industries under Subsection (c) of this section, the speaker of the house of representatives, lieutenant governor, and governor shall appoint members from among the following industries and must coordinate their appointments to avoid overlap in representation of the industries:

- (1) medical profession;
- (2) technology;
- (3) Internet;
- (4) retail and electronic transactions;
- (5) consumer banking;
- (6) telecommunications;
- (7) consumer data analytics;
- (8) advertising;
- (9) Internet service providers;
- (10) social media platforms;
- (11) cloud data storage;
- (12) virtual private networks; or
- (13) retail electric.

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(f) The council shall convene on a regular basis at the joint call of the co-chairs.

(g) The council shall:

- (1) study and evaluate the laws in this state, other states, and relevant foreign jurisdictions that govern the privacy and protection of information that alone or in conjunction with other information identifies or is linked or reasonably linkable to a specific individual, technological device, or household; and

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(2) make recommendations to the members of the legislature on specific statutory changes regarding the privacy and protection of that information, including changes to Chapter 521, Business & Commerce Code, as amended by this Act, or to the Penal Code, that appear necessary from the results of the council's study under this section.

(h) Not later than September 1, 2020, the council shall report the council's findings and recommendations to the members of the legislature.

(i) The Department of Information Resources shall provide administrative support to the council.

(j) Not later than the 60th day after the effective date of this Act, the speaker of the house of representatives, the lieutenant governor, and the governor shall appoint the members of the council.

(k) The council is abolished and this section expires December 31, 2020.

SECTION 3. This Act takes effect September 1, 2019.

SENATE VERSION (CS)

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(k) The council is abolished and this section expires December 31, 2020.

SECTION 3. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2019.

(b) Section 521.053, Business & Commerce Code, as amended by this Act, takes effect January 1, 2020.

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