

Senate Bill 245

By: Senators Heath of the 31st, Rogers of the 21st, Carter of the 13th, Pearson of the 51st, Hamrick of the 30th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 10 of the Official Code of Georgia Annotated, relating to
2 business records, so as to require a person or business that conducts business in this state and
3 that owns or licenses computerized data that includes personal information to disclose in
4 specified ways any breach of the security of the data to any resident of this state whose
5 unencrypted personal information was, or is reasonably believed to have been, acquired by
6 an unauthorized person; to permit notification to be delayed if a law enforcement agency
7 determines that it would impede a criminal investigation; to require a person or business that
8 maintains computerized data that includes personal information owned by another to notify
9 the owner or licensee of the information of any breach of security of the data; to provide for
10 certain civil actions; to define certain terms; to amend Chapter 18 of Title 50 of the Official
11 Code of Georgia Annotated, relating to state printing and documents, so as to require an
12 agency that owns or licenses computerized data that includes personal information to disclose
13 in specified ways any breach of the security of the data to any resident of this state whose
14 unencrypted personal information was, or is reasonably believed to have been, acquired by
15 an unauthorized person; to permit notification to be delayed if a law enforcement agency
16 determines that it would impede a criminal investigation; to require an agency that maintains
17 computerized data that includes personal information owned by another to notify the owner
18 or licensee of the information of any breach of security of the data; to define certain terms;
19 to provide for legislative findings and declarations; to repeal conflicting laws; and for other
20 purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 The General Assembly finds and declares as follows:

24 (1) The privacy and financial security of individuals is increasingly at risk due to the ever
25 more widespread collection of personal information by both the private and public sector;

1 (2) Credit card transactions, magazine subscriptions, telephone numbers, real estate records,
 2 automobile registrations, consumer surveys, warranty registrations, credit reports, and
 3 Internet websites are all sources of personal information and form the source material for
 4 identity thieves;

5 (3) Identity theft is one of the fastest growing crimes committed in this state. Criminals who
 6 steal personal information such as social security numbers use the information to open credit
 7 card accounts, write bad checks, buy cars, and commit other financial crimes with other
 8 people's identities;

9 (4) Identity theft is costly to the marketplace and to consumers; and

10 (5) Victims of identity theft must act quickly to minimize the damage; therefore, expeditious
 11 notification of possible misuse of a person's personal information is imperative.

12 SECTION 2.

13 Chapter 11 of Title 10 of the Official Code of Georgia Annotated, relating to business
 14 records, is amended by adding a new Code section to read as follows:

15 "10-11-4.

16 (a) As used in this Code section, the term:

17 (1) 'Breach of the security of the system' means unauthorized acquisition of
 18 computerized data that compromises the security, confidentiality, or integrity of personal
 19 information maintained by the person or business. Good faith acquisition of personal
 20 information by an employee or agent of the person or business for the purposes of the
 21 person or business is not a breach of the security of the system, provided that the personal
 22 information is not used or subject to further unauthorized disclosure.

23 (2) 'Personal information' means an individual's first name or first initial and last name
 24 in combination with any one or more of the following data elements, when either the
 25 name or the data elements are not encrypted:

26 (A) Social security number;

27 (B) Driver's license number or Georgia identification card number; or

28 (C) Account number, credit or debit card number, in combination with any required
 29 security code, access code, or password that would permit access to an individual's
 30 financial account.

31 The term 'personal information' does not include publicly available information that is
 32 lawfully made available to the general public from federal, state, or local government
 33 records.

34 (b) Any person or business that conducts business in this state and that owns or licenses
 35 computerized data that includes personal information, shall disclose any breach of the
 36 security of the system following discovery or notification of the breach in the security of

1 the data to any resident of this state whose unencrypted personal information was, or is
2 reasonably believed to have been, acquired by an unauthorized person. The disclosure shall
3 be made in the most expedient time possible and without unreasonable delay, consistent
4 with the legitimate needs of law enforcement as provided in subsection (d) of this Code
5 section or any measures necessary to determine the scope of the breach and restore the
6 reasonable integrity of the data system.

7 (c) Any person or business that maintains computerized data that includes personal
8 information that the person or business does not own shall notify the owner or licensee of
9 the information of any breach of the security of the data immediately following discovery,
10 if the personal information was, or is reasonably believed to have been, acquired by an
11 unauthorized person.

12 (d) The notification required by this Code section may be delayed if a law enforcement
13 agency determines that the notification will impede a criminal investigation. The
14 notification required by this Code section shall be made after the law enforcement agency
15 determines that it will not compromise the investigation.

16 (e) For purposes of this Code section, notice shall be provided by one of the following
17 methods:

18 (1) Written notice;

19 (2) Electronic notice, if the notice provided is consistent with the provisions regarding
20 electronic records and signatures set forth in Section 7001 of Title 15 of the United
21 States Code; or

22 (3) Substitute notice, if the person or business demonstrates that the cost of providing
23 notice would exceed \$250,000.00, the affected class of subject persons to be notified
24 exceeds 500,000, or the person or business does not have sufficient contact information.
25 Substitute notice shall consist of all of the following:

26 (A) E-mail notice when the person or business has an e-mail address for the subject
27 persons;

28 (B) Conspicuous posting of the notice on the website page of the person or business,
29 if the person or business maintains one; and

30 (C) Notification to major state-wide media.

31 (f) Notwithstanding subsection (e) of this Code section, a person or business that maintains
32 its own notification procedures as part of an information security policy for the treatment
33 of personal information and is otherwise consistent with the timing requirements of this
34 Code section shall be deemed to be in compliance with the notification requirements of this
35 Code section if the person or business notifies affected persons in accordance with its
36 policies in the event of a breach of security of the system.

1 (g)(1) Any person injured by a violation of this Code section may institute a civil action
2 to recover damages.

3 (2) Any business that violates, proposes to violate, or has violated this title may be
4 enjoined.

5 (3) The rights and remedies available under this subsection are cumulative to each other
6 and to any other rights and remedies available under law."

7 **SECTION 3.**

8 Chapter 18 of Title 50 of the Official Code of Georgia Annotated, relating to state printing
9 and documents, is amended by adding a new article to read as follows:

10 "ARTICLE 8

11 50-18-140.

12 (a) As used in this Code section, the term:

13 (1) 'Agency' means any:

14 (A) State department, agency, board, bureau, commission, public corporation, or
15 authority;

16 (B) County, municipal corporation, school district, or other political subdivision of this
17 state;

18 (C) Department, agency, board, bureau, commission, authority, or similar body of each
19 such county, municipal corporation, or other political subdivision of the state; or

20 (D) City, county, regional, or other authority established pursuant to the laws of this
21 state.

22 (2) 'Breach of the security of the system' means unauthorized acquisition of
23 computerized data that compromises the security, confidentiality, or integrity of personal
24 information maintained by the agency. Good faith acquisition of personal information
25 by an employee or agent of the agency for the purposes of the agency is not a breach of
26 the security of the system, provided that the personal information is not used or subject
27 to further unauthorized disclosure.

28 (3) 'Personal information' means an individual's first name or first initial and last name
29 in combination with any one or more of the following data elements, when either the
30 name or the data elements are not encrypted:

31 (A) Social security number;

32 (B) Driver's license number or Georgia identification card number;

1 (C) Account number, credit or debit card number, in combination with any required
2 security code, access code, or password that would permit access to an individual's
3 financial account.

4 The term 'personal information' does not include publicly available information that is
5 lawfully made available to the general public from federal, state, or local government
6 records.

7 (b) Any agency that owns or licenses computerized data that includes personal information
8 shall disclose any breach of the security of the system following discovery or notification
9 of the breach in the security of the data to any resident of this state whose unencrypted
10 personal information was, or is reasonably believed to have been, acquired by an
11 unauthorized person. The disclosure shall be made in the most expedient time possible and
12 without unreasonable delay, consistent with the legitimate needs of law enforcement as
13 provided in subsection (d) of this Code section or any measures necessary to determine the
14 scope of the breach and restore the reasonable integrity of the data system.

15 (c) Any agency that maintains computerized data that includes personal information that
16 the agency does not own shall notify the owner or licensee of the information of any breach
17 of the security of the data immediately following discovery, if the personal information
18 was, or is reasonably believed to have been, acquired by an unauthorized person.

19 (d) The notification required by this Code section may be delayed if a law enforcement
20 agency determines that the notification will impede a criminal investigation. The
21 notification required by this Code section shall be made after the law enforcement agency
22 determines that it will not compromise the investigation.

23 (e) For purposes of this Code section, notice shall be provided by one of the following
24 methods:

25 (1) Written notice;

26 (2) Electronic notice, if the notice provided is consistent with the provisions regarding
27 electronic records and signatures set forth in Section 7001 of Title 15 of the United
28 States Code; or

29 (3) Substitute notice, if the agency demonstrates that the cost of providing notice would
30 exceed \$250,000.00, the affected class of subject persons to be notified exceeds 500,000,
31 or the agency does not have sufficient contact information. Substitute notice shall consist
32 of all of the following:

33 (A) E-mail notice when the agency has an e-mail address for the subject persons;

34 (B) Conspicuous posting of the notice on the agency's website page, if the agency
35 maintains one; and

36 (C) Notification to major state-wide media.

1 (f) Notwithstanding subsection (e) of this Code section, an agency that maintains its own
2 notification procedures as part of an information security policy for the treatment of
3 personal information and is otherwise consistent with the timing requirements of this article
4 shall be deemed to be in compliance with the notification requirements of this section if it
5 notifies affected persons in accordance with its policies in the event of a breach of security
6 of the system."

7 **SECTION 4.**

8 All laws and parts of laws in conflict with this Act are repealed.