

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 162 Session of
2011

INTRODUCED BY PILEGGI, SCARNATI, ORIE, COSTA, ERICKSON, BROWNE,
FOLMER, PICCOLA, YAW, SMUCKER, RAFFERTY, D. WHITE, PIPPY,
ALLOWAY, WARD, BOSCOLA, FARNESE, WILLIAMS, BRUBAKER,
WASHINGTON, TOMLINSON, GORDNER, WAUGH, MENSCH, GREENLEAF,
EARLL, BAKER, KITCHEN, ROBBINS AND WOZNIAK, JANUARY 20, 2011

AS AMENDED ON SECOND CONSIDERATION, SEPTEMBER 20, 2011

AN ACT

1 Amending the act of December 22, 2005 (P.L.474, No.94), entitled
2 "An act providing for the notification of residents whose
3 personal information data was or may have been disclosed due
4 to a security system breach; and imposing penalties," further
5 providing for notification of breach; AND PROVIDING FOR
6 INVESTIGATION OF BREACH INVOLVING A STATE AGENCY, FOR
7 INVESTIGATION OF BREACH INVOLVING A COUNTY, SCHOOL DISTRICT
8 OR MUNICIPALITY AND FOR INDIVIDUALS RESPONSIBLE FOR BREACH. ←

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 3 of the act of December 22, 2005
12 (P.L.474, No.94), known as the Breach of Personal Information
13 Notification Act, is amended by adding a ~~subsection~~ SUBSECTIONS ←
14 to read:

15 Section 3. Notification of breach.

16 * * *

17 (a.1) Notification by ~~government entity~~ STATE AGENCY.--If a ←
18 State agency or ~~political subdivision~~ is the subject of a breach ←
19 of security of the system, the State agency or ~~political~~ ←

subdivision shall provide notice of the breach of security of
the system required under subsection (a) within seven days
following discovery of the breach. Notification shall be
provided to the Office of Attorney General within three business
days following discovery of the breach. Notification shall occur
regardless of the existence of procedures and policies under
section 7.

(A.2) NOTIFICATION BY COUNTY, SCHOOL DISTRICT OR
MUNICIPALITY.--IF A COUNTY, SCHOOL DISTRICT OR MUNICIPALITY IS
THE SUBJECT OF A BREACH OF SECURITY OF THE SYSTEM, THE COUNTY,
SCHOOL DISTRICT OR MUNICIPALITY SHALL PROVIDE NOTICE OF THE
BREACH OF SECURITY OF THE SYSTEM REQUIRED UNDER SUBSECTION (A)
WITHIN SEVEN DAYS FOLLOWING DISCOVERY OF THE BREACH.
NOTIFICATION SHALL BE PROVIDED TO THE DISTRICT ATTORNEY IN THE
COUNTY IN WHICH THE BREACH OCCURRED WITHIN THREE BUSINESS DAYS
FOLLOWING DISCOVERY OF THE BREACH. NOTIFICATION SHALL OCCUR
REGARDLESS OF THE EXISTENCE OF PROCEDURES AND POLICIES UNDER
SECTION 7.

* * *

Section 2. The act is amended by adding ~~a section~~ SECTIONS
to read:

Section 3.1. Investigation of breach involving a ~~government~~
~~entity~~ STATE AGENCY.

(a) Investigation.--Upon receipt of notification under
section 3(a.1), the Office of Attorney General shall investigate
the breach. The investigation shall include a review of
procedures, a determination of the cause of the breach and
recommendations to the agency relating to prevention of similar
breaches in the future.

(b) Cost.--The cost of the investigation shall be paid by

1 the agency in which the breach occurred.

2 SECTION 3.2. INVESTIGATION OF BREACH INVOLVING A COUNTY, SCHOOL
3 DISTRICT OR MUNICIPALITY.

4 (A) INVESTIGATION.--UPON RECEIPT OF NOTIFICATION UNDER
5 SECTION 3(A.2), THE DISTRICT ATTORNEY SHALL INVESTIGATE THE
6 BREACH. THE INVESTIGATION SHALL INCLUDE A REVIEW OF PROCEDURES,
7 A DETERMINATION OF THE CAUSE OF THE BREACH AND RECOMMENDATIONS
8 TO THE COUNTY, SCHOOL DISTRICT OR MUNICIPALITY RELATING TO
9 PREVENTION OF SIMILAR BREACHES IN THE FUTURE.

10 (B) COST.--THE COST OF THE INVESTIGATION UNDER SECTION
11 3(A.2) SHALL BE PAID BY THE COUNTY, SCHOOL DISTRICT OR
12 MUNICIPALITY WHERE THE BREACH OCCURRED.

13 (C) ATTORNEY GENERAL.--IF THE DISTRICT ATTORNEY DETERMINES
14 THAT THE BREACH OF SECURITY OF THE SYSTEM WARRANTS AN
15 INVESTIGATION BY THE OFFICE OF ATTORNEY GENERAL, THE DISTRICT
16 ATTORNEY MAY REQUEST THAT THE ATTORNEY GENERAL JOIN OR TAKE OVER
17 THE INVESTIGATION.

18 SECTION 3.3. INDIVIDUALS RESPONSIBLE FOR BREACH.

19 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF A BREACH
20 OF SECURITY OF THE SYSTEM WAS CAUSED BY AN INTENTIONAL ACT OR
21 MISUSE OF THE SYSTEM OR INTENTIONAL UNAUTHORIZED ACCESS TO THE
22 SYSTEM, AN INDIVIDUAL DETERMINED BY A COURT TO BE RESPONSIBLE
23 FOR THE BREACH MAY BE ORDERED BY THE COURT TO PAY FOR THE COST
24 OF THE INVESTIGATION AND THE COST OF REPAIRING AND RESTORING THE
25 SYSTEM.

26 Section 3. This act shall take effect in 60 days.