

IN THE SENATE

SENATE BILL NO. 1066

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO IDENTITY THEFT; AMENDING SECTION 28-51-104, IDAHO CODE, TO RE-  
2 VISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION  
3 28-51-105, IDAHO CODE, TO REVISE PROVISIONS REGARDING DISCLOSURE OF  
4 BREACH OF SECURITY OF COMPUTERIZED PERSONALLY IDENTIFIABLE INFORMA-  
5 TION BY AN AGENCY, INDIVIDUAL, OR A COMMERCIAL ENTITY; AMENDING SECTION  
6 28-51-106, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY AND TO MAKE  
7 TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING AN EF-  
8 FECTIVE DATE.  
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Section 28-51-104, Idaho Code, be, and the same is  
12 hereby amended to read as follows:

13 28-51-104. DEFINITIONS. For purposes of sections 28-51-104 through  
14 28-51-107, Idaho Code:

15 (1) "Agency" means any "public agency" as defined in section 74-101,  
16 Idaho Code.

17 (2) "Breach of the security of the system" means the illegal acquisi-  
18 tion of unencrypted computerized data that materially compromises the se-  
19 curity, confidentiality, or integrity of personal information for one (1)  
20 or more persons maintained by an agency, individual or a commercial entity.  
21 Good faith acquisition of personal information by an employee or agent of an  
22 agency, individual or a commercial entity for the purposes of the agency, in-  
23 dividual or the commercial entity is not a breach of the security of the sys-  
24 tem, provided that the personal information is not used or subject to further  
25 unauthorized disclosure.

26 (3) "Commercial entity" includes corporation, business trust, estate,  
27 trust, partnership, limited partnership, limited liability partnership,  
28 limited liability company, association, organization, joint venture and any  
29 other legal entity, whether for profit or ~~not-for-profit~~ not for profit.

30 (4) "Notice" means:

31 (a) Written notice to the most recent address the agency, individual or  
32 commercial entity has in its records;

33 (b) Telephonic notice;

34 (c) Electronic notice, if the notice provided is consistent with the  
35 provisions regarding electronic records and signatures set forth in 15  
36 U.S.C. section 7001; or

37 (d) Substitute notice, if the agency, individual or the commercial  
38 entity required to provide notice demonstrates that the cost of pro-  
39 viding notice will exceed twenty-five thousand dollars (\$25,000), or  
40 that the number of Idaho residents to be notified exceeds fifty thousand  
41 (50,000), or that the agency, individual or the commercial entity does

1 not have sufficient contact information to provide notice. Substitute  
2 notice consists of all of the following:

- 3 (i) E-mail notice if the agency, individual or the commercial en-  
4 tity has e-mail addresses for the affected Idaho residents; and  
5 (ii) Conspicuous posting of the notice on the website page of the  
6 agency, individual or the commercial entity if the agency, indi-  
7 vidual or the commercial entity maintains one; and  
8 (iii) Notice to major statewide media.

9 (5) ~~"Personal information"~~ "Personally identifiable information" or  
10 "(PII)" means an Idaho resident's first name or first initial and last name  
11 in combination with any one (1) or more of the following data elements that  
12 relate to the resident, when either the name or the data elements are not en-  
13 crypted:

- 14 (a) Social security number;  
15 (b) Driver's license number, passport number, or ~~Idaho~~ other govern-  
16 ment-issued identification card number; or  
17 (c) Account number, or credit or debit card number, in combination with  
18 any required security code, access code, or password that would permit  
19 access to a resident's financial account;  
20 (d) Username or email address, in combination with a password or secu-  
21 rity question that would permit access to an online account;  
22 (e) Individual medical history, treatment, diagnosis, or DNA profile;  
23 (f) Health insurance policy number or other unique identifier used by a  
24 health insurer;  
25 (g) Unique biometric data generated for authentication purposes; or  
26 (h) Individual taxpayer identification number.

27 The term ~~"personal personally identifiable information"~~ does not in-  
28 clude publicly available information that is lawfully made available to the  
29 general public from federal, state, or local government records or widely  
30 distributed media.

31 (6) "Primary regulator" of a commercial entity or individual licensed  
32 or chartered by the United States is that commercial entity's or individ-  
33 ual's primary federal regulator, the primary regulator of a commercial en-  
34 tity or individual licensed by the department of finance is the department of  
35 finance, the primary regulator of a commercial entity or individual licensed  
36 by the department of insurance is the department of insurance and, for all  
37 agencies and all other commercial entities or individuals, the primary regu-  
38 lator is the attorney general.

39 SECTION 2. That Section 28-51-105, Idaho Code, be, and the same is  
40 hereby amended to read as follows:

41 28-51-105. DISCLOSURE OF BREACH OF SECURITY OF COMPUTERIZED ~~PERSONAL~~  
42 PERSONALLY IDENTIFIABLE INFORMATION BY AN AGENCY, INDIVIDUAL, OR A COMMER-  
43 CIAL ENTITY. (1) A city, county, or state agency, an individual, or a com-  
44 mercial entity that conducts business in Idaho and that owns or licenses com-  
45 puterized data that includes ~~personal information~~ PII about a resident of  
46 Idaho shall, when it becomes aware of a breach of the security of the system,  
47 conduct in good faith a reasonable and prompt investigation to determine the  
48 likelihood that ~~personal information~~ PII has been or will be misused. If the  
49 investigation determines that the misuse of information about an Idaho res-

1 ident has occurred or is reasonably likely to occur, the agency, individ-  
 2 ual, or the commercial entity shall give notice as soon as possible to the af-  
 3 fected Idaho resident. Notice must be made in the most expedient time possi-  
 4 ble and without unreasonable delay, consistent with the legitimate needs of  
 5 law enforcement and consistent with any measures necessary to determine the  
 6 scope of the breach, to identify the individuals affected, and to restore the  
 7 reasonable integrity of the computerized data system.

8 When an agency becomes aware of a breach of the security of the system,  
 9 it shall, within twenty-four (24) hours of such discovery, notify the office  
 10 of the Idaho attorney general. Nothing contained in this section relieves  
 11 a state agency's responsibility to report a security breach to the office of  
 12 the chief information officer within the department of administration, pur-  
 13 suant to the Idaho technology authority policies.

14 Any governmental employee who intentionally discloses ~~personal infor-~~  
 15 ~~mation~~ PII not subject to disclosure otherwise allowed by law is guilty of  
 16 a misdemeanor and, upon conviction thereof, shall be punished by a fine of  
 17 not more than two thousand dollars (\$2,000), or by imprisonment in the county  
 18 jail for a period of not more than one (1) year, or both.

19 (2) An agency, individual, or a commercial entity that maintains com-  
 20 puterized data that includes ~~personal information~~ PII that the agency, in-  
 21 dividual, or the commercial entity does not own or license shall give notice  
 22 to and cooperate with the owner or licensee of the information of any breach  
 23 of the security of the system immediately following discovery of a breach if  
 24 misuse of personal information about an Idaho resident occurred or is rea-  
 25 sonably likely to occur. Cooperation includes sharing with the owner or li-  
 26 censee information relevant to the breach.

27 (3) Notice required by this section may be delayed if a law enforcement  
 28 agency advises the agency, individual, or commercial entity that the notice  
 29 will impede a criminal investigation. Notice required by this section must  
 30 be made in good faith, without unreasonable delay and as soon as possible af-  
 31 ter the law enforcement agency advises the agency, individual, or commercial  
 32 entity that notification will no longer impede the investigation.

33 (4) An agency, individual, or commercial entity that has determined  
 34 that the misuse of PII about an Idaho resident has occurred or is reasonably  
 35 likely to occur shall, in addition to the notice required by this section:

36 (a) Offer to provide credit monitoring services at no cost to the af-  
 37 ected resident for a period of not less than thirty-six (36) months;  
 38 and

39 (b) Provide information on how to enroll in the free credit monitor-  
 40 ing service pursuant to paragraph (a) of this subsection and how the af-  
 41 ected resident can place a credit freeze on such resident's credit file  
 42 with credit reporting agencies.

43 SECTION 3. That Section 28-51-106, Idaho Code, be, and the same is  
 44 hereby amended to read as follows:

45 28-51-106. PROCEDURES DEEMED IN COMPLIANCE WITH SECURITY BREACH  
 46 REQUIREMENTS. (1) An agency, an individual, or a commercial entity that  
 47 maintains its own notice procedures as part of an information security pol-  
 48 icy for the treatment of ~~personal~~ personally identifiable information, and  
 49 whose procedures are otherwise consistent with the timing requirements of

1 section 28-51-105, Idaho Code, is deemed to be in compliance with the notice  
2 requirements of section 28-51-105, Idaho Code, if the agency, individual, or  
3 the commercial entity notifies affected Idaho residents in accordance with  
4 its policies in the event of a breach of security of the system.

5 (2) An individual or a commercial entity that is regulated by state or  
6 federal law and that maintains procedures for a breach of the security of  
7 the system pursuant to the laws, rules, regulations, guidances, or guide-  
8 lines established by its primary or functional state or federal regulator is  
9 deemed to be in compliance with section 28-51-105, Idaho Code, if the indi-  
10 vidual or the commercial entity complies with the maintained procedures when  
11 a breach of the security of the system occurs.

12 SECTION 4. An emergency existing therefor, which emergency is hereby  
13 declared to exist, this act shall be in full force and effect on and after  
14 July 1, 2025.