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HB 481, Engrossed 1

2005 Legislature

1 A bill to be entitled
2 An act relating to unlawful use of personal identification
3 information; amending s. 817.568, F.S.; including other
4 information within the definition of the term "personal
5 identification information"; defining the term
6 "counterfeit or fictitious personal identification
7 information"; revising criminal penalties relating to the
8 offense of fraudulently using, or possessing with intent
9 to fraudulently use, personal identification information;
10 providing minimum mandatory terms of imprisonment;
11 creating the offenses of willfully and fraudulently using,
12 or possessing with intent to fraudulently use, personal
13 identification information concerning a deceased
14 individual; providing criminal penalties; providing for
15 minimum mandatory terms of imprisonment; creating the
16 offense of willfully and fraudulently creating or using,
17 or possessing with intent to fraudulently use, counterfeit
18 or fictitious personal identification information;
19 providing criminal penalties; providing for
20 reclassification of offenses under certain circumstances;
21 providing for reduction or suspension of sentences under
22 certain circumstances; creating s. 817.5681, F.S.;
23 requiring business persons maintaining computerized data
24 that includes personal information to provide notice of
25 breaches of system security under certain circumstances;
26 providing requirements; providing for administrative
27 fines; providing exceptions and limitations; authorizing
28 delays of such disclosures under certain circumstances;

Page 1 of 20

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0481-05-er

ENROLLED

HB 481, Engrossed 1

2005 Legislature

29 providing definitions; providing for alternative notice
30 methods; specifying conditions of compliance for persons
31 maintaining certain alternative notification procedures;
32 specifying conditions under which notification is not
33 required; providing requirements for documentation and
34 maintenance of documentation; providing an administrative
35 fine for failing to document certain failures to comply;
36 providing for application of administrative sanctions to
37 certain persons under certain circumstances; authorizing
38 the Department of Legal Affairs to institute proceedings
39 to assess and collect fines; requiring notification of
40 consumer reporting agencies of breaches of system security
41 under certain circumstances; providing an effective date.

42

43 Be It Enacted by the Legislature of the State of Florida:

44

45 Section 1. Section 817.568, Florida Statutes, is amended
46 to read:

47 817.568 Criminal use of personal identification
48 information.--

49 (1) As used in this section, the term:

50 (a) "Access device" means any card, plate, code, account
51 number, electronic serial number, mobile identification number,
52 personal identification number, or other telecommunications
53 service, equipment, or instrument identifier, or other means of
54 account access that can be used, alone or in conjunction with
55 another access device, to obtain money, goods, services, or any
56 other thing of value, or that can be used to initiate a transfer

ENROLLED

HB 481, Engrossed 1

2005 Legislature

57 | of funds, other than a transfer originated solely by paper
58 | instrument.

59 | (b) "Authorization" means empowerment, permission, or
60 | competence to act.

61 | (c) "Harass" means to engage in conduct directed at a
62 | specific person that is intended to cause substantial emotional
63 | distress to such person and serves no legitimate purpose.

64 | "Harass" does not mean to use personal identification
65 | information for accepted commercial purposes. The term does not
66 | include constitutionally protected conduct such as organized
67 | protests or the use of personal identification information for
68 | accepted commercial purposes.

69 | (d) "Individual" means a single human being and does not
70 | mean a firm, association of individuals, corporation,
71 | partnership, joint venture, sole proprietorship, or any other
72 | entity.

73 | (e) "Person" means a "person" as defined in s. 1.01(3).

74 | (f) "Personal identification information" means any name
75 | or number that may be used, alone or in conjunction with any
76 | other information, to identify a specific individual, including
77 | any:

- 78 | 1. Name, postal or electronic mail address, telephone
79 | number, social security number, date of birth, mother's maiden
80 | name, official state-issued or United States-issued driver's
81 | license or identification number, alien registration number,
82 | government passport number, employer or taxpayer identification
83 | number, Medicaid or food stamp account number, ~~or~~ bank account
84 | number, ~~or~~ credit or debit card number, or personal

ENROLLED
 HB 481, Engrossed 1

2005 Legislature

85 identification number or code assigned to the holder of a debit
 86 card by the issuer to permit authorized electronic use of such
 87 card;

88 2. Unique biometric data, such as fingerprint, voice
 89 print, retina or iris image, or other unique physical
 90 representation;

91 3. Unique electronic identification number, address, or
 92 routing code; ~~or~~

93 4. Medical records;

94 ~~5.4. Telecommunication identifying information or access~~
 95 ~~device; or-~~

96 6. Other number or information that can be used to access
 97 a person's financial resources.

98 (g) "Counterfeit or fictitious personal identification
 99 information" means any counterfeit, fictitious, or fabricated
 100 information in the similitude of the data outlined in paragraph
 101 (f) that, although not truthful or accurate, would in context
 102 lead a reasonably prudent person to credit its truthfulness and
 103 accuracy.

104 (2) (a) Any person who willfully and without authorization
 105 fraudulently uses, or possesses with intent to fraudulently use,
 106 personal identification information concerning an individual
 107 without first obtaining that individual's consent, commits the
 108 offense of fraudulent use of personal identification
 109 information, which is a felony of the third degree, punishable
 110 as provided in s. 775.082, s. 775.083, or s. 775.084.

111 (b) Any person who willfully and without authorization
 112 fraudulently uses personal identification information concerning

ENROLLED

HB 481, Engrossed 1

2005 Legislature

113 | an individual without first obtaining that individual's consent
 114 | commits a felony of the second degree, punishable as provided in
 115 | s. 775.082, s. 775.083, or s. 775.084, if the pecuniary benefit,
 116 | the value of the services received, the payment sought to be
 117 | avoided, or the amount of the injury or fraud perpetrated is
 118 | \$5,000 or more or if the person fraudulently uses the personal
 119 | identification information of 10 or more individuals, but fewer
 120 | than 20 individuals, without their consent. Notwithstanding any
 121 | other provision of law, the court shall sentence any person
 122 | convicted of committing the offense described in this paragraph
 123 | to a mandatory minimum sentence of 3 years' imprisonment.

124 | (c) Any person who willfully and without authorization
 125 | fraudulently uses personal identification information concerning
 126 | an individual without first obtaining that individual's consent
 127 | commits a felony of the first degree, punishable as provided in
 128 | s. 775.082, s. 775.083, or s. 775.084, if the pecuniary benefit,
 129 | the value of the services received, the payment sought to be
 130 | avoided, or the amount of the injury or fraud perpetrated is
 131 | \$50,000 or more or if the person fraudulently uses the personal
 132 | identification information of 20 or more individuals, but fewer
 133 | than 30 individuals, without their consent. Notwithstanding any
 134 | other provision of law, the court shall sentence any person
 135 | convicted of committing the offense described in this paragraph+

136 | ~~to~~ to a mandatory minimum sentence of 5 years'
 137 | imprisonment. If the pecuniary benefit, the value of the
 138 | services received, the payment sought to be avoided, or the
 139 | amount of the injury or fraud perpetrated is \$100,000 or more,
 140 | or if the person fraudulently uses the personal identification

ENROLLED

HB 481, Engrossed 1

2005 Legislature

141 | information of 30 or more individuals without their consent,
142 | notwithstanding any other provision of law, the court shall
143 | sentence any person convicted of committing the offense
144 | described in this paragraph

145 | ~~2. to a mandatory minimum sentence of 10 years'~~
146 | ~~imprisonment, if the pecuniary benefit, the value of the~~
147 | ~~services received, the payment sought to be avoided, or the~~
148 | ~~amount of the injury or fraud perpetrated is \$100,000 or more or~~
149 | ~~if the person fraudulently uses the personal identification~~
150 | ~~information of 30 or more individuals without their consent.~~

151 | (3) Neither paragraph (2)(b) nor paragraph (2)(c) prevents
152 | a court from imposing a greater sentence of incarceration as
153 | authorized by law. If the minimum mandatory terms of
154 | imprisonment imposed under paragraph (2)(b) or paragraph (2)(c)
155 | exceed the maximum sentences authorized under s. 775.082, s.
156 | 775.084, or the Criminal Punishment Code under chapter 921, the
157 | mandatory minimum sentence must be imposed. If the mandatory
158 | minimum terms of imprisonment under paragraph (2)(b) or
159 | paragraph (2)(c) are less than the sentence that could be
160 | imposed under s. 775.082, s. 775.084, or the Criminal Punishment
161 | Code under chapter 921, the sentence imposed by the court must
162 | include the mandatory minimum term of imprisonment as required
163 | by paragraph (2)(b) or paragraph (2)(c).

164 | (4) Any person who willfully and without authorization
165 | possesses, uses, or attempts to use personal identification
166 | information concerning an individual without first obtaining
167 | that individual's consent, and who does so for the purpose of
168 | harassing that individual, commits the offense of harassment by

ENROLLED

HB 481, Engrossed 1

2005 Legislature

169 use of personal identification information, which is a
 170 misdemeanor of the first degree, punishable as provided in s.
 171 775.082 or s. 775.083.

172 (5) If an offense prohibited under this section was
 173 facilitated or furthered by the use of a public record, as
 174 defined in s. 119.011, the offense is reclassified to the next
 175 higher degree as follows:

176 (a) A misdemeanor of the first degree is reclassified as a
 177 felony of the third degree.

178 (b) A felony of the third degree is reclassified as a
 179 felony of the second degree.

180 (c) A felony of the second degree is reclassified as a
 181 felony of the first degree.

182

183 For purposes of sentencing under chapter 921 and incentive gain-
 184 time eligibility under chapter 944, a felony offense that is
 185 reclassified under this subsection is ranked one level above the
 186 ranking under s. 921.0022 of the felony offense committed, and a
 187 misdemeanor offense that is reclassified under this subsection
 188 is ranked in level 2 of the offense severity ranking chart in s.
 189 921.0022.

190 (6) Any person who willfully and without authorization
 191 fraudulently uses personal identification information concerning
 192 an individual who is less than 18 years of age without first
 193 obtaining the consent of that individual or of his or her legal
 194 guardian commits a felony of the second degree, punishable as
 195 provided in s. 775.082, s. 775.083, or s. 775.084.

ENROLLED

HB 481, Engrossed 1

2005 Legislature

196 (7) Any person who is in the relationship of parent or
 197 legal guardian, or who otherwise exercises custodial authority
 198 over an individual who is less than 18 years of age, who
 199 willfully and fraudulently uses personal identification
 200 information of that individual commits a felony of the second
 201 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 202 775.084.

203 (8) (a) Any person who willfully and fraudulently uses, or
 204 possesses with intent to fraudulently use, personal
 205 identification information concerning a deceased individual
 206 commits the offense of fraudulent use or possession with intent
 207 to use personal identification information of a deceased
 208 individual, a felony of the third degree, punishable as provided
 209 in s. 775.082, s. 775.083, or s. 775.084.

210 (b) Any person who willfully and fraudulently uses
 211 personal identification information concerning a deceased
 212 individual commits a felony of the second degree, punishable as
 213 provided in s. 775.082, s. 775.083, or s. 775.084, if the
 214 pecuniary benefit, the value of the services received, the
 215 payment sought to be avoided, or the amount of injury or fraud
 216 perpetrated is \$5,000 or more, or if the person fraudulently
 217 uses the personal identification information of 10 or more but
 218 fewer than 20 deceased individuals. Notwithstanding any other
 219 provision of law, the court shall sentence any person convicted
 220 of committing the offense described in this paragraph to a
 221 mandatory minimum sentence of 3 years' imprisonment.

222 (c) Any person who willfully and fraudulently uses
 223 personal identification information concerning a deceased

ENROLLED

HB 481, Engrossed 1

2005 Legislature

224 individual commits the offense of aggravated fraudulent use of
225 the personal identification information of multiple deceased
226 individuals, a felony of the first degree, punishable as
227 provided in s. 775.082, s. 775.083, or s. 775.084, if the
228 pecuniary benefit, the value of the services received, the
229 payment sought to be avoided, or the amount of injury or fraud
230 perpetrated is \$50,000 or more, or if the person fraudulently
231 uses the personal identification information of 20 or more but
232 fewer than 30 deceased individuals. Notwithstanding any other
233 provision of law, the court shall sentence any person convicted
234 of the offense described in this paragraph to a minimum
235 mandatory sentence of 5 years' imprisonment. If the pecuniary
236 benefit, the value of the services received, the payment sought
237 to be avoided, or the amount of the injury or fraud perpetrated
238 is \$100,000 or more, or if the person fraudulently uses the
239 personal identification information of 30 or more deceased
240 individuals, notwithstanding any other provision of law, the
241 court shall sentence any person convicted of an offense
242 described in this paragraph to a mandatory minimum sentence of
243 10 years' imprisonment.

244 (9) Any person who willfully and fraudulently creates or
245 uses, or possesses with intent to fraudulently use, counterfeit
246 or fictitious personal identification information concerning a
247 fictitious individual, or concerning a real individual without
248 first obtaining that real individual's consent, with intent to
249 use such counterfeit or fictitious personal identification
250 information for the purpose of committing or facilitating the
251 commission of a fraud on another person, commits the offense of

ENROLLED

HB 481, Engrossed 1

2005 Legislature

252 fraudulent creation or use, or possession with intent to
 253 fraudulently use, counterfeit or fictitious personal
 254 identification information, a felony of the third degree,
 255 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

256 (10) Any person who commits an offense described in this
 257 section and for the purpose of obtaining or using personal
 258 identification information misrepresents himself or herself to
 259 be a law enforcement officer; an employee or representative of a
 260 bank, credit card company, credit counseling company, or credit
 261 reporting agency; or any person who wrongfully represents that
 262 he or she is seeking to assist the victim with a problem with
 263 the victim's credit history shall have the offense reclassified
 264 as follows:

265 (a) In the case of a misdemeanor, the offense is
 266 reclassified as a felony of the third degree.

267 (b) In the case of a felony of the third degree, the
 268 offense is reclassified as a felony of the second degree.

269 (c) In the case of a felony of the second degree, the
 270 offense is reclassified as a felony of the first degree.

271 (d) In the case of a felony of the first degree or a
 272 felony of the first degree punishable by a term of imprisonment
 273 not exceeding life, the offense is reclassified as a life
 274 felony.

275
 276 For purposes of sentencing under chapter 921, a felony offense
 277 that is reclassified under this subsection is ranked one level
 278 above the ranking under s. 921.0022 or s. 921.0023 of the felony
 279 offense committed, and a misdemeanor offense that is

ENROLLED

HB 481, Engrossed 1

2005 Legislature

280 reclassified under this subsection is ranked in level 2 of the
 281 offense severity ranking chart.

282 (11) The prosecutor may move the sentencing court to
 283 reduce or suspend the sentence of any person who is convicted of
 284 a violation of this section and who provides substantial
 285 assistance in the identification, arrest, or conviction of any
 286 of that person's accomplices, accessories, coconspirators, or
 287 principals or of any other person engaged in fraudulent
 288 possession or use of personal identification information. The
 289 arresting agency shall be given an opportunity to be heard in
 290 aggravation or mitigation in reference to any such motion. Upon
 291 good cause shown, the motion may be filed and heard in camera.
 292 The judge hearing the motion may reduce or suspend the sentence
 293 if the judge finds that the defendant rendered such substantial
 294 assistance.

295 (12)~~(8)~~ This section does not prohibit any lawfully
 296 authorized investigative, protective, or intelligence activity
 297 of a law enforcement agency of this state or any of its
 298 political subdivisions, of any other state or its political
 299 subdivisions, or of the Federal Government or its political
 300 subdivisions.

301 (13)~~(9)~~(a) In sentencing a defendant convicted of an
 302 offense under this section, the court may order that the
 303 defendant make restitution under ~~pursuant to~~ s. 775.089 to any
 304 victim of the offense. In addition to the victim's out-of-pocket
 305 costs, ~~such~~ restitution may include payment of any other costs,
 306 including attorney's fees incurred by the victim in clearing the
 307 victim's credit history or credit rating, or any costs incurred

ENROLLED

HB 481, Engrossed 1

2005 Legislature

308 | in connection with any civil or administrative proceeding to
309 | satisfy any debt, lien, or other obligation of the victim
310 | arising as the result of the actions of the defendant.

311 | (b) The sentencing court may issue such orders as are
312 | necessary to correct any public record that contains false
313 | information given in violation of this section.

314 | (14)~~(10)~~ Prosecutions for violations of this section may
315 | be brought on behalf of the state by any state attorney or by
316 | the statewide prosecutor.

317 | (15)~~(11)~~ The Legislature finds that, in the absence of
318 | evidence to the contrary, the location where a victim gives or
319 | fails to give consent to the use of personal identification
320 | information is the county where the victim generally resides.

321 | (16)~~(12)~~ Notwithstanding any other provision of law, venue
322 | for the prosecution and trial of violations of this section may
323 | be commenced and maintained in any county in which an element of
324 | the offense occurred, including the county where the victim
325 | generally resides.

326 | (17)~~(13)~~ A prosecution of an offense prohibited under
327 | subsection (2), subsection (6), or subsection (7) must be
328 | commenced within 3 years after the offense occurred. However, a
329 | prosecution may be commenced within 1 year after discovery of
330 | the offense by an aggrieved party, or by a person who has a
331 | legal duty to represent the aggrieved party and who is not a
332 | party to the offense, if such prosecution is commenced within 5
333 | years after the violation occurred.

334 | Section 2. Section 817.5681, Florida Statutes, is created
335 | to read:

ENROLLED

HB 481, Engrossed 1

2005 Legislature

336 817.5681 Breach of security concerning confidential
337 personal information in third-party possession; administrative
338 penalties.--

339 (1) (a) Any person who conducts business in this state and
340 maintains computerized data in a system that includes personal
341 information shall provide notice of any breach of the security
342 of the system, following a determination of the breach, to any
343 resident of this state whose unencrypted personal information
344 was, or is reasonably believed to have been, acquired by an
345 unauthorized person. The notification shall be made without
346 unreasonable delay, consistent with the legitimate needs of law
347 enforcement, as provided in subsection (3) and paragraph
348 (10) (a), or subject to any measures necessary to determine the
349 presence, nature, and scope of the breach and restore the
350 reasonable integrity of the system. Notification must be made no
351 later than 45 days following the determination of the breach
352 unless otherwise provided in this section.

353 (b) Any person required to make notification under
354 paragraph (a) who fails to do so within 45 days following the
355 determination of a breach or receipt of notice from law
356 enforcement as provided in subsection (3) is liable for an
357 administrative fine not to exceed \$500,000, as follows:

358 1. In the amount of \$1,000 for each day the breach goes
359 undisclosed for up to 30 days and, thereafter, \$50,000 for each
360 30-day period or portion thereof for up to 180 days.

361 2. If notification is not made within 180 days, any person
362 required to make notification under paragraph (a) who fails to
363 do so is subject to an administrative fine of up to \$500,000.

ENROLLED

HB 481, Engrossed 1

2005 Legislature

364 (c) The administrative sanctions for failure to notify
365 provided in this subsection shall apply per breach and not per
366 individual affected by the breach.

367 (d) The administrative sanctions for failure to notify
368 provided in this subsection shall not apply in the case of
369 personal information in the custody of any governmental agency
370 or subdivision, unless that governmental agency or subdivision
371 has entered into a contract with a contractor or third-party
372 administrator to provide governmental services. In such case,
373 the contractor or third-party administrator shall be a person to
374 whom the administrative sanctions provided in this subsection
375 would apply, although such contractor or third-party
376 administrator found in violation of the notification
377 requirements provided in this subsection would not have an
378 action for contribution or set-off available against the
379 employing agency or subdivision.

380 (2) (a) Any person who maintains computerized data that
381 includes personal information on behalf of another business
382 entity shall disclose to the business entity for which the
383 information is maintained any breach of the security of the
384 system as soon as practicable, but no later than 10 days
385 following the determination, if the personal information was, or
386 is reasonably believed to have been, acquired by an unauthorized
387 person. The person who maintains the data on behalf of another
388 business entity and the business entity on whose behalf the data
389 is maintained may agree who will provide the notice, if any is
390 required, as provided in paragraph (1) (a), provided only a
391 single notice for each breach of the security of the system

ENROLLED
 HB 481, Engrossed 1

2005 Legislature

392 shall be required. If agreement regarding notification cannot be
 393 reached, the person who has the direct business relationship
 394 with the resident of this state shall be subject to the
 395 provisions of paragraph (1) (a).

396 (b) Any person required to disclose to a business entity
 397 under paragraph (a) who fails to do so within 10 days after the
 398 determination of a breach or receipt of notification from law
 399 enforcement as provided in subsection (3) is liable for an
 400 administrative fine not to exceed \$500,000, as follows:

401 1. In the amount of \$1,000 for each day the breach goes
 402 undisclosed for up to 30 days and, thereafter, \$50,000 for each
 403 30-day period or portion thereof for up to 180 days.

404 2. If disclosure is not made within 180 days, any person
 405 required to make disclosures under paragraph (a) who fails to do
 406 so is subject to an administrative fine of up to \$500,000.

407 (c) The administrative sanctions for nondisclosure
 408 provided in this subsection shall apply per breach and not per
 409 individual affected by the breach.

410 (d) The administrative sanctions for nondisclosure
 411 provided in this subsection shall not apply in the case of
 412 personal information in the custody of any governmental agency
 413 or subdivision unless that governmental agency or subdivision
 414 has entered into a contract with a contractor or third-party
 415 administrator to provide governmental services. In such case,
 416 the contractor or third-party administrator shall be a person to
 417 whom the administrative sanctions provided in this subsection
 418 would apply, although such contractor or third-party
 419 administrator found in violation of the nondisclosure

ENROLLED

HB 481, Engrossed 1

2005 Legislature

420 restrictions in this subsection would not have an action for
421 contribution or set-off available against the employing agency
422 or subdivision.

423 (3) The notification required by this section may be
424 delayed upon a request by law enforcement if a law enforcement
425 agency determines that the notification will impede a criminal
426 investigation. The notification time period required by this
427 section shall commence after the person receives notice from the
428 law enforcement agency that the notification will not compromise
429 the investigation.

430 (4) For purposes of this section, the terms "breach" and
431 "breach of the security of the system" mean unlawful and
432 unauthorized acquisition of computerized data that materially
433 compromises the security, confidentiality, or integrity of
434 personal information maintained by the person. Good faith
435 acquisition of personal information by an employee or agent of
436 the person is not a breach or breach of the security of the
437 system, provided the information is not used for a purpose
438 unrelated to the business or subject to further unauthorized
439 use.

440 (5) For purposes of this section, the term "personal
441 information" means an individual's first name, first initial and
442 last name, or any middle name and last name, in combination with
443 any one or more of the following data elements when the data
444 elements are not encrypted:

445 (a) Social security number.

446 (b) Driver's license number or Florida Identification Card
447 number.

ENROLLED

HB 481, Engrossed 1

2005 Legislature

448 (c) Account number, credit card number, or debit card
449 number, in combination with any required security code, access
450 code, or password that would permit access to an individual's
451 financial account.

452
453 For purposes of this section, the term "personal information"
454 does not include publicly available information that is lawfully
455 made available to the general public from federal, state, or
456 local government records or widely distributed media.

457 (6) For purposes of this section, notice may be provided
458 by one of the following methods:

459 (a) Written notice;

460 (b) Electronic notice, if the notice provided is
461 consistent with the provisions regarding electronic records and
462 signatures set forth in 15 U.S.C. s. 7001 or if the person or
463 business providing the notice has a valid email address for the
464 subject person and the subject person has agreed to accept
465 communications electronically; or

466 (c) Substitute notice, if the person demonstrates that the
467 cost of providing notice would exceed \$250,000, the affected
468 class of subject persons to be notified exceeds 500,000, or the
469 person does not have sufficient contact information. Substitute
470 notice shall consist of all of the following:

471 1. Electronic mail or email notice when the person has an
472 electronic mail or email address for the subject persons.

473 2. Conspicuous posting of the notice on the web page of
474 the person, if the person maintains a web page.

475 3. Notification to major statewide media.

ENROLLED

HB 481, Engrossed 1

2005 Legislature

476 (7) For purposes of this section, the term "unauthorized
477 person" means any person who does not have permission from, or a
478 password issued by, the person who stores the computerized data
479 to acquire such data, but does not include any individual to
480 whom the personal information pertains.

481 (8) For purposes of this section, the term "person" means
482 a person as defined in s. 1.01(3). For purposes of this section,
483 the State of Florida, as well as any of its agencies or
484 political subdivisions, and any of the agencies of its political
485 subdivisions, constitutes a person.

486 (9) Notwithstanding subsection (6), a person who
487 maintains:

488 (a) The person's own notification procedures as part of an
489 information security or privacy policy for the treatment of
490 personal information, which procedures are otherwise consistent
491 with the timing requirements of this part; or

492 (b) A notification procedure pursuant to the rules,
493 regulations, procedures, or guidelines established by the
494 person's primary or functional federal regulator,

495
496 shall be deemed to be in compliance with the notification
497 requirements of this section if the person notifies subject
498 persons in accordance with the person's policies or the rules,
499 regulations, procedures, or guidelines established by the
500 primary or functional federal regulator in the event of a breach
501 of security of the system.

502 (10) (a) Notwithstanding subsection (2), notification is
503 not required if, after an appropriate investigation or after

ENROLLED

HB 481, Engrossed 1

2005 Legislature

504 consultation with relevant federal, state, and local agencies
 505 responsible for law enforcement, the person reasonably
 506 determines that the breach has not and will not likely result in
 507 harm to the individuals whose personal information has been
 508 acquired and accessed. Such a determination must be documented
 509 in writing and the documentation must be maintained for 5 years.

510 (b) Any person required to document a failure to notify
 511 affected persons who fails to document the failure as required
 512 in this subsection or who, if documentation was created, fails
 513 to maintain the documentation for the full 5 years as required
 514 in this subsection is liable for an administrative fine in the
 515 amount of up to \$50,000 for such failure.

516 (c) The administrative sanctions outlined in this
 517 subsection shall not apply in the case of personal information
 518 in the custody of any governmental agency or subdivision, unless
 519 that governmental agency or subdivision has entered into a
 520 contract with a contractor or third-party administrator to
 521 provide governmental services. In such case the contractor or
 522 third-party administrator shall be a person to whom the
 523 administrative sanctions outlined in this subsection would
 524 apply, although such contractor or third-party administrator
 525 found in violation of the documentation and maintenance of
 526 documentation requirements in this subsection would not have an
 527 action for contribution or set-off available against the
 528 employing agency or subdivision.

529 (11) The Department of Legal Affairs may institute
 530 proceedings to assess and collect the fines provided in this
 531 section.

ENROLLED

HB 481, Engrossed 1

2005 Legislature

532 (12) If a person discovers circumstances requiring
533 notification pursuant to this section of more than 1,000 persons
534 at a single time, the person shall also notify, without
535 unreasonable delay, all consumer reporting agencies that compile
536 and maintain files on consumers on a nationwide basis, as
537 defined in 15 U.S.C. s. 1681a(p), of the timing, distribution,
538 and content of the notices.

539 Section 3. This act shall take effect July 1, 2005.