

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 566

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO DISCLOSURE OF PERSONAL INFORMATION; AMENDING SECTION 28-51-105, IDAHO CODE, TO PROVIDE FOR APPLICATION TO CITY, COUNTY AND STATE AGENCIES, TO PROVIDE FOR NOTICE TO AFFECTED IDAHO RESIDENTS BY AGENCIES, TO PROVIDE FOR NOTICE BY AGENCIES TO THE OFFICE OF THE IDAHO ATTORNEY GENERAL IN THE EVENT OF CERTAIN BREACHES OF SECURITY, TO CLARIFY THAT CERTAIN REPORTING REQUIREMENTS CONTINUE TO APPLY TO STATE AGENCIES AND TO PROVIDE FOR VIOLATIONS AND PENALTIES.

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

SECTION 1. That Section 28-51-105, Idaho Code, be, and the same is hereby amended to read as follows:

28-51-105. DISCLOSURE OF BREACH OF SECURITY OF COMPUTERIZED PERSONAL INFORMATION BY AN AGENCY, INDIVIDUAL OR A COMMERCIAL ENTITY. (1) ~~An agency~~ city, county or state agency, individual or a commercial entity that conducts business in Idaho and that owns or licenses computerized data that includes personal information about a resident of Idaho shall, when it becomes aware of a breach of the security of the system, conduct in good faith a reasonable and prompt investigation to determine the likelihood that personal information has been or will be misused. If the investigation determines that the misuse of information about an Idaho resident has occurred or is reasonably likely to occur, the agency, individual or the commercial entity shall give notice as soon as possible to the affected Idaho resident. Notice must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement and consistent with any measures necessary to determine the scope of the breach, to identify the individuals affected, and to restore the reasonable integrity of the computerized data system.

When an agency becomes aware of a breach of the security of the system, it shall, within twenty-four (24) hours of such discovery, notify the office of the Idaho attorney general. Nothing contained herein relieves a state agency's responsibility to report a security breach to the office of the chief information officer within the department of administration, pursuant to the information technology resource management council policies.

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

(2) An agency, individual or a commercial entity that maintains computerized data that includes personal information that the agency, individual or the commercial entity does not own or license shall give notice to and cooperate with the owner or licensee of the information of any breach

1 of the security of the system immediately following discovery of a breach,
2 if misuse of personal information about an Idaho resident occurred or is
3 reasonably likely to occur. Cooperation includes sharing with the owner or
4 licensee information relevant to the breach.

5 (3) Notice required by this section may be delayed if a law enforcement
6 agency advises the agency, individual or commercial entity that the
7 notice will impede a criminal investigation. Notice required by this
8 section must be made in good faith, without unreasonable delay and as
9 soon as possible after the law enforcement agency advises the agency,
10 individual or commercial entity that notification will no longer impede the
11 investigation.