

1 **SENATE FLOOR VERSION**

2 February 13, 2025

3 SENATE BILL NO. 626

By: Howard

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5
6 An Act relating to the Security Breach Notification
7 Act; amending 24 O.S. 2021, Sections 162, 163, 164,
8 165, and 166, which relate to definitions, duty to
9 disclose breach, notice, enforcement, and
10 application; modifying definitions; requiring notice
11 of security breach of certain information; requiring
12 notice to Attorney General under certain
13 circumstances; specifying contents of required
14 notice; providing exemptions from certain notice
15 requirements; requiring confidentiality of certain
16 information submitted to Attorney General;
17 authorizing Attorney General to promulgate rules;
18 clarifying compliance with certain notice
19 requirements; modifying authorized civil penalties
20 for certain violations; providing exemptions from
21 certain liability; limiting liability for violations
22 under certain circumstances; modifying applicability
23 of act; updating statutory language; updating
24 statutory references; and providing an effective
date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 24 O.S. 2021, Section 162, is
amended to read as follows:

Section 162. As used in the Security Breach Notification Act:

1. "Breach of the security of a system" means the unauthorized
access and acquisition of unencrypted and unredacted computerized
data that compromises the security or confidentiality of personal

1 information maintained by an individual or entity as part of a
2 database of personal information regarding multiple individuals and
3 that causes, or the individual or entity reasonably believes has
4 caused or will cause, identity theft or other fraud to any resident
5 of this state. Good faith acquisition of personal information by an
6 employee or agent of an individual or entity for the purposes of the
7 individual or the entity is not a breach of the security of the
8 system, provided that the personal information is not used for a
9 purpose other than a lawful purpose of the individual or entity or
10 subject to ~~further~~ unauthorized disclosure;

11 2. "Entity" includes corporations, business trusts, estates,
12 partnerships, limited partnerships, limited liability partnerships,
13 limited liability companies, associations, organizations, joint
14 ventures, governments, governmental subdivisions, agencies, or
15 instrumentalities, or any other legal entity, whether for profit or
16 not-for-profit;

17 3. "Encrypted" means transformation of data through the use of
18 an algorithmic process into a form in which there is a low
19 probability of assigning meaning without use of a confidential
20 process or key, or securing the information by another method that
21 renders the data elements unreadable or unusable;

22 4. "Financial institution" means any institution the business
23 of which is engaging in financial activities as defined by 15
24 U.S.C., Section 6809;

1 5. "Individual" means a natural person;

2 6. "Personal information" means ~~the~~ an individual's first name
3 or first initial and last name in combination with ~~and linked to~~ any
4 one or more of the following data elements that relate to ~~a resident~~
5 ~~of this state, when~~ the individual if any of the data elements are
6 neither not encrypted, ~~nor~~ redacted, or otherwise altered by any
7 method or technology in such a manner that the name or data elements
8 are unreadable or are encrypted, redacted, or otherwise altered by
9 any method or technology but the keys to unencrypt, unredact, or
10 otherwise read the data elements have been obtained through the
11 breach of security:

12 a. social security number,

13 b. driver license number or ~~state~~ other unique
14 identification card number issued in lieu of a driver
15 license, or created or collected by a government
16 entity,

17 c. financial account number, or credit card or debit card
18 number, in combination with any required expiration
19 date, security code, access code, or password that
20 would permit access to ~~the~~ an individual's financial
21 accounts of a resident account,

22 d. unique electronic identifier or routing code in
23 combination with any required security code, access
24

1 code, or password that would permit access to an
2 individual's financial account, or

3 e. unique biometric data such as a fingerprint, retina or
4 iris image, or other unique physical or digital
5 representation of biometric data.

6 The term does not include information that is lawfully obtained from
7 publicly available ~~information~~ sources, or from federal, state or
8 local government records lawfully made available to the general
9 public;

10 7. "Notice" means:

- 11 a. written notice to the postal address in the records
12 of the individual or entity,
- 13 b. telephone notice,
- 14 c. electronic notice, or
- 15 d. substitute notice, if the individual or the entity
16 required to provide notice demonstrates that the cost
17 of providing notice will exceed Fifty Thousand Dollars
18 (\$50,000.00), or that the affected class of residents
19 to be notified exceeds one hundred thousand (100,000)
20 persons, or that the individual or the entity does not
21 have sufficient contact information or consent to
22 provide notice as described in subparagraph a, b, or c
23 of this paragraph. Substitute notice consists of any
24 two of the following:

1 (1) ~~e-mail~~ email notice if the individual or the
2 entity has ~~e-mail~~ email addresses for the members
3 of the affected class of residents,

4 (2) conspicuous posting of the notice on the Internet
5 ~~web-site~~ website of the individual or the entity
6 if the individual or the entity maintains a
7 public Internet ~~web-site~~ website, or

8 (3) notice to major statewide media; ~~and~~

9 8. "Reasonable safeguards" means policies and practices that
10 ensure personal information is secure, taking into consideration an
11 entity's size and the type and amount of personal information. The
12 term includes, but is not limited to, conducting risk assessments,
13 implementing technical and physical layered defenses, employee
14 training on handling personal information, and establishing an
15 incident response plan; and

16 9. "Redact" means alteration or truncation of data such that no
17 more than the following are accessible as part of the personal
18 information:

- 19 a. five digits of a social security number, or
- 20 b. the last four digits of a driver license number, ~~state~~
21 unique identification ~~card~~ number created or collected
22 by a government entity, or account number.

23 SECTION 2. AMENDATORY 24 O.S. 2021, Section 163, is
24 amended to read as follows:

1 Section 163. A. An individual or entity that owns or licenses
2 computerized data that includes personal information shall ~~disclose~~
3 provide notice of any breach of the security of the system following
4 ~~discovery~~ determination or notification of the breach of the
5 security of the system to any resident of this state whose
6 unencrypted and unredacted personal information was or is reasonably
7 believed to have been accessed and acquired by an unauthorized
8 person and that causes, or the individual or entity reasonably
9 believes has caused or will cause, identity theft or other fraud to
10 any resident of this state. Except as provided in subsection D of
11 this section or in order to take any measures necessary to determine
12 the scope of the breach and to restore the reasonable integrity of
13 the system, the disclosure shall be made without unreasonable delay.

14 B. An individual or entity ~~must disclose~~ shall provide notice
15 of the breach of the security of the system if encrypted or redacted
16 information is accessed and acquired in an unencrypted or unredacted
17 form or if the security breach involves a person with access to the
18 encryption key and the individual or entity reasonably believes that
19 such breach has caused or will cause identity theft or other fraud
20 to any resident of this state.

21 C. An individual or entity that maintains computerized data
22 that includes personal information that the individual or entity
23 does not own or license shall ~~notify~~ provide notice to the owner or
24 licensee of the information of any breach of the security of the

1 system as soon as practicable following ~~discovery~~ determination, if
2 the personal information was or if the entity reasonably believes it
3 was accessed and acquired by an unauthorized person.

4 D. Notice required by this section may be delayed if a law
5 enforcement agency determines and advises the individual or entity
6 that the notice will impede a criminal or civil investigation or
7 homeland or national security. Notice required by this section must
8 be made without unreasonable delay after the law enforcement agency
9 determines that notification will no longer impede the investigation
10 or jeopardize national or homeland security.

11 E. 1. An individual or entity required to provide notice in
12 accordance with subsection A, B, or C of this section shall also
13 provide notice to the Attorney General of such breach without
14 unreasonable delay but in no event more than sixty (60) days after
15 providing notice to impacted residents of this state as required by
16 this section. The notice shall include the date of the breach, the
17 date of its determination, the nature of the breach, the type of
18 personal information exposed, the number of residents of this state
19 affected, the estimated monetary impact of the breach to the extent
20 such impact can be determined, and any reasonable safeguards the
21 entity employs.

22 2. A breach of a security system where fewer than five hundred
23 (500) residents of this state are affected within a single breach
24

1 shall be exempt from the notice requirements of paragraph 1 of this
2 subsection.

3 3. A breach of a security system maintained by a credit bureau
4 where fewer than one thousand (1,000) residents of this state are
5 affected within a single breach shall be exempt from the notice
6 requirements of paragraph 1 of this subsection.

7 F. Any personal information submitted to the Attorney General
8 shall be kept confidential pursuant to Section 24A.12 of Title 51 of
9 the Oklahoma Statutes.

10 G. The Attorney General may promulgate rules as necessary to
11 effectuate the provisions of this section.

12 SECTION 3. AMENDATORY 24 O.S. 2021, Section 164, is
13 amended to read as follows:

14 Section 164. A. An individual or entity that maintains its own
15 notification procedures as part of an information privacy or
16 security policy for the treatment of personal information and that
17 are consistent with the timing requirements of ~~this act~~ the Security
18 Breach Notification Act shall be deemed to be in compliance with the
19 notification requirements of ~~this act~~ subsection A, B, or C of
20 Section 163 of this title if ~~it~~ the individual or entity notifies
21 residents of this state in accordance with its procedures in the
22 event of a breach of security of the system.

23 B. The following entities shall be deemed to be in compliance
24 with the notification requirements of subsection A, B, or C of

1 Section 163 of this title if such entities provide notice to the
2 Attorney General as required by subsection E of Section 163 of this
3 title:

4 1. A financial institution that complies with the notification
5 requirements prescribed by the ~~Federal~~ Gramm-Leach-Bliley Act and
6 the federal Interagency Guidance on Response Programs for
7 Unauthorized Access to Customer Information and Customer Notice ~~is~~
8 ~~deemed to be in compliance with the provisions of this act.;~~

9 2. An entity that complies with the notification requirements
10 prescribed by the Oklahoma Hospital Cybersecurity Protection Act of
11 2023 or the Health Insurance Portability and Accountability Act of
12 1996 (HIPAA); and

13 3. An entity that complies with the notification requirements
14 or procedures pursuant to the rules, ~~regulation~~ regulations,
15 procedures, or guidelines established by the primary or functional
16 federal regulator of the entity ~~shall be deemed to be in compliance~~
17 ~~with the provisions of this act.~~

18 SECTION 4. AMENDATORY 24 O.S. 2021, Section 165, is
19 amended to read as follows:

20 Section 165. A. A violation of ~~this act~~ the Security Breach
21 Notification Act that results in injury or loss to residents of this
22 state may be enforced by the Attorney General or a district attorney
23 in the same manner as an unlawful practice under the Oklahoma
24 Consumer Protection Act.

1 B. Except as provided in subsection ~~E~~ D of this section, the
2 Attorney General or a district attorney shall have exclusive
3 authority to bring an action and may obtain ~~either~~ actual damages
4 for a violation of ~~this act or~~ the Security Breach Notification Act
5 and a civil penalty not to exceed One Hundred Fifty Thousand Dollars
6 (\$150,000.00) per breach of the security of the system or series of
7 breaches of a similar nature that are ~~discovered~~ determined in a
8 single investigation. Civil penalties shall be based upon the
9 magnitude of the breach, the extent to which the behavior of the
10 individual or entity contributed to the breach, and any failure to
11 provide the notice required by Section 163 of this title.

12 C. 1. An individual or entity that uses reasonable safeguards
13 and provides notice as required by Section 163 or 164 of this title
14 shall not be subject to civil penalties and may use such compliance
15 as an affirmative defense in a civil action filed under the Security
16 Breach Notification Act.

17 2. An individual or entity that fails to use reasonable
18 safeguards but provides notice as required by Section 163 or 164 of
19 this title shall not be subject to the civil penalty set forth in
20 subsection B of this section but shall be subject to actual damages
21 and a civil penalty of Seventy-five Thousand Dollars (\$75,000.00).

22 ~~E.~~ D. A violation of ~~this act~~ the Security Breach Notification
23 Act by a state-chartered or state-licensed financial institution
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1 shall be enforceable exclusively by the primary state regulator of
2 the financial institution.

3 SECTION 5. AMENDATORY 24 O.S. 2021, Section 166, is
4 amended to read as follows:

5 Section 166. ~~This act~~ The Security Breach Notification Act
6 shall apply to the ~~discovery~~ determination or notification of a
7 breach of the security of the system that occurs on or after
8 ~~November 1, 2008~~ January 1, 2026.

9 SECTION 6. This act shall become effective January 1, 2026.

10 COMMITTEE REPORT BY: COMMITTEE ON TECHNOLOGY AND TELECOMMUNICATIONS
11 February 13, 2025 - DO PASS

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