

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 288

By: Pugh

AS INTRODUCED

An Act relating to the Security Breach Notification Act; amending 24 O.S. 2011, Sections 163 and 165, which relate to duty to disclose breach and enforcement; requiring disclosure of security breach to Attorney General; granting exclusive authority to enforce certain violation to Attorney General; imposing certain monetary civil penalties; increasing certain civil penalty; updating statutory reference; and providing an effective date.

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

SECTION 1. AMENDATORY 24 O.S. 2011, Section 163, is amended to read as follows:

Section 163. A. An individual or entity that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system immediately after discovery or notification of the breach of the security of the system to the Oklahoma Attorney General. Disclosure to the Attorney General shall include the nature and scope of the breach, and, when practicable, the number of affected residents as referenced in subsection B of this section.

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

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

20 ~~C.~~ D. An individual or entity that maintains computerized data
21 that includes personal information that the individual or entity
22 does not own or license shall notify the owner or licensee of the
23 information of any breach of the security of the system as soon as
24 practicable following discovery, if the personal information was or
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1 if the entity reasonably believes was accessed and acquired by an
2 unauthorized person.

3 ~~D.~~ E. Notice required by subsections B, C and D of this section
4 may be delayed if a law enforcement agency determines and advises
5 the individual or entity that the notice will impede a criminal or
6 civil investigation or homeland or national security. Notice
7 required by subsections B, C and D of this section must be made
8 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 SECTION 2. AMENDATORY 24 O.S. 2011, Section 165, is
12 amended to read as follows:

13 Section 165. A. A violation of ~~this act~~ Section 161 et seq. of
14 this title that results in injury or loss to residents of this state
15 may be enforced by the Attorney General or a district attorney in
16 the same manner as an unlawful practice under the Oklahoma Consumer
17 Protection Act.

18 B. Except as provided in subsection D of this section, the
19 Attorney General shall have the exclusive authority to bring an
20 action to enforce a violation of Section 163 of this title. An
21 individual or entity that violates the disclosure and notification
22 requirements of Section 163 of this title shall be liable for a
23 civil penalty of Fifty Thousand Dollars (\$50,000.00). Additionally,
24 an individual or entity who violates Section 163 of this title and

1 fails to comply with its provisions within thirty (30) days of the
2 discovery or notification of the breach, shall be liable for an
3 additional One Thousand Dollars (\$1,000.00) per day for each
4 consecutive day after such thirty-day period that the individual or
5 entity fails to comply.

6 C. Except as provided in subsection E D of this section, the
7 Attorney General or a district attorney shall have exclusive
8 authority to bring action and may obtain either actual damages for a
9 violation of ~~this act~~ Section 161 et seq. of this title or a civil
10 penalty not to exceed ~~One Hundred Fifty Thousand Dollars~~
11 ~~(\$150,000.00)~~ Two Hundred Fifty Thousand Dollars (\$250,000.00) per
12 breach of the security of the system or series of breaches of a
13 similar nature that are discovered in a single investigation.

14 E. D. A violation of ~~this act~~ Section 161 et seq. of this title
15 by a state-chartered or state-licensed financial institution shall
16 be enforceable exclusively by the primary state regulator of the
17 financial institution.

18 SECTION 3. This act shall become effective November 1, 2019.

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