



General Assembly

February Session, 2020

***Raised Bill No. 137***

LCO No. 1415



Referred to Committee on GENERAL LAW

Introduced by:  
(GL)

***AN ACT CONCERNING DATA PRIVACY BREACHES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-701b of the general statutes, as amended by  
2 section 231 of public act 19-117 and section 9 of public act 19-196, is  
3 repealed and the following is substituted in lieu thereof (*Effective October*  
4 *1, 2021*):

5 (a) For purposes of this section, (1) "breach of security" means  
6 unauthorized access to or unauthorized acquisition of electronic files,  
7 media, databases or computerized data, containing personal  
8 information when access to the personal information has not been  
9 secured by encryption or by any other method or technology that  
10 renders the personal information unreadable or unusable; and (2)  
11 "personal information" means (A) an individual's first name or first  
12 initial and last name in combination with any one, or more, of the  
13 following data: [(A)] (i) Social Security number; (ii) individual taxpayer  
14 identification number or identity protection personal identification  
15 number issued by the IRS; [(B)] (iii) driver's license number, [or] state  
16 identification card number, passport number, military identification

17 number, or other identification number issued by the government that  
18 is used to verify identity; [(C)] (iv) credit or debit card number; [or (D)]  
19 (v) financial account number in combination with any required security  
20 code, access code or password that would permit access to such  
21 financial account; (vi) medical information, including any information  
22 regarding an individual's medical history, mental or physical condition,  
23 or medical treatment or diagnosis by a health care professional; (vii)  
24 health insurance policy number or subscriber identification number, or  
25 any unique identifier used by a health insurer or a self-insured employer  
26 to identify the individual; or (viii) biometric information consisting of  
27 data generated by electronic measurements of an individual's unique  
28 physical characteristics and used to authenticate or ascertain the  
29 individual's identity, such as a fingerprint, voice print, retina or iris  
30 image, or other unique physical representation or digital representation  
31 of biometric data; and (B) user name or electronic mail address, in  
32 combination with a password or security question and answer that  
33 would permit access to an online account. "Personal information" does  
34 not include publicly available information that is lawfully made  
35 available to the general public from federal, state or local government  
36 records or widely distributed media.

37 (b) (1) Any person who [conducts business in this state, and who, in  
38 the ordinary course of such person's business,] owns, licenses or  
39 maintains computerized data that includes personal information, shall  
40 provide notice of any breach of security following the discovery of the  
41 breach to any resident of this state whose personal information was  
42 breached or is reasonably believed to have been breached. Such notice  
43 shall be made without unreasonable delay but not later than [ninety]  
44 thirty days after the discovery of such breach, unless a shorter time is  
45 required under federal law, subject to the provisions of subsection (d) of  
46 this section and the completion of an investigation by such person to  
47 determine the nature and scope of the incident, to identify the  
48 individuals affected, or to restore the reasonable integrity of the data  
49 system. Such notification shall not be required if, after an appropriate  
50 investigation and consultation with relevant federal, state and local

51 agencies responsible for law enforcement, the person reasonably  
52 determines that the breach will not likely result in harm to the  
53 individuals whose personal information has been acquired [and] or  
54 accessed.

55 (2) If notice of a breach of security is required by subdivision (1) of  
56 this subsection:

57 (A) The person who [conducts business in this state, and who, in the  
58 ordinary course of such person's business,] owns, licenses or maintains  
59 computerized data that includes personal information, shall, not later  
60 than the time when notice is provided to the resident, also provide  
61 notice of the breach of security to the Attorney General; and

62 (B) The person who [conducts business in this state, and who, in the  
63 ordinary course of such person's business,] owns or licenses  
64 computerized data that includes personal information, shall offer to  
65 each resident whose nonpublic information under [subparagraph (B)(i)  
66 of subdivision (9) of subsection (b) of section 38a-38 or personal  
67 information as defined in] subparagraph (A) of subdivision (2) of  
68 subsection (a) of this section was breached or is reasonably believed to  
69 have been breached, appropriate identity theft prevention services and,  
70 if applicable, identity theft mitigation services. Such service or services  
71 shall be provided at no cost to such resident for a period of not less than  
72 twenty-four months. Such person shall provide all information  
73 necessary for such resident to enroll in such service or services and shall  
74 include information on how such resident can place a credit freeze on  
75 such resident's credit file.

76 (c) Any person that maintains computerized data that includes  
77 personal information that the person does not own shall notify the  
78 owner or licensee of the information of any breach of the security of the  
79 data immediately following its discovery, if the personal information of  
80 a resident of this state was breached or is reasonably believed to have  
81 been breached.

82 (d) Any notification required by this section shall be delayed for a

83 reasonable period of time if a law enforcement agency determines that  
84 the notification will impede a criminal investigation and such law  
85 enforcement agency has made a request that the notification be delayed.  
86 Any such delayed notification shall be made after such law enforcement  
87 agency determines that notification will not compromise the criminal  
88 investigation and so notifies the person of such determination.

89 (e) Any notice to a resident, owner or licensee required by the  
90 provisions of this section may be provided by one of the following  
91 methods, subject to the provisions of subsection (g) of this section: (1)  
92 Written notice; (2) telephone notice; (3) electronic notice, provided such  
93 notice is consistent with the provisions regarding electronic records and  
94 signatures set forth in 15 USC 7001; (4) substitute notice, provided such  
95 person demonstrates that the cost of providing notice in accordance  
96 with subdivision (1), (2) or (3) of this subsection would exceed two  
97 hundred fifty thousand dollars, that the affected class of subject persons  
98 to be notified exceeds five hundred thousand persons or that the person  
99 does not have sufficient contact information. Substitute notice shall  
100 consist of the following: (A) Electronic mail notice when the person has  
101 an electronic mail address for the affected persons; (B) conspicuous  
102 posting of the notice on the web site of the person if the person maintains  
103 one; and (C) notification to major state-wide media, including  
104 newspapers, radio and television.

105 (f) Any person that maintains such person's own security breach  
106 procedures as part of an information security policy for the treatment of  
107 personal information and otherwise complies with the timing  
108 requirements of this section, shall be deemed to be in compliance with  
109 the security breach notification requirements of this section, provided  
110 such person notifies, as applicable, residents of this state, owners and  
111 licensees in accordance with such person's policies in the event of a  
112 breach of security and in the case of notice to a resident, such person  
113 also notifies the Attorney General not later than the time when notice is  
114 provided to the resident. Any person that maintains such a security  
115 breach procedure pursuant to the rules, regulations, procedures or  
116 guidelines established by the primary or functional regulator, as defined

117 in 15 USC 6809(2), shall be deemed to be in compliance with the security  
118 breach notification requirements of this section, provided (1) such  
119 person notifies, as applicable, such residents of this state, owners, and  
120 licensees required to be notified under and in accordance with the  
121 policies or the rules, regulations, procedures or guidelines established  
122 by the primary or functional regulator in the event of a breach of  
123 security, and (2) if notice is given to a resident of this state in accordance  
124 with subdivision (1) of this subsection regarding a breach of security,  
125 such person also notifies the Attorney General not later than the time  
126 when notice is provided to the resident.

127 (g) In the event of a breach of login credentials under subparagraph  
128 (B) of subdivision (2) of subsection (a) of this section, notice to a resident  
129 shall not be exclusively provided through the affected online account,  
130 but shall be provided via methods otherwise permitted pursuant to  
131 subsection (e) of this section.

132 ~~[(g)]~~ (h) Failure to comply with the requirements of this section shall  
133 constitute an unfair trade practice for purposes of section 42-110b and  
134 shall be enforced by the Attorney General.

This act shall take effect as follows and shall amend the following sections:

Section 1	October 1, 2021	36a-701b
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**Statement of Purpose:**

To expand the data privacy breach notification statute to protect consumers.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*