

By: Representative Hood

To: Judiciary B

HOUSE BILL NO. 1366

1 AN ACT TO AMEND SECTION 75-24-29, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE REPORTING OF CERTAIN INSTANCES OF A SECURITY BREACH TO
3 THE OFFICE OF THE ATTORNEY GENERAL; TO REQUIRE THAT SUCH REPORT
4 TO THE ATTORNEY GENERAL INCLUDE CERTAIN INFORMATION; TO EXEMPT
5 CERTAIN INFORMATION MARKED AS CONFIDENTIAL FROM THE MISSISSIPPI
6 PUBLIC RECORDS ACT OF 1983; AND FOR RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 75-24-29, Mississippi Code of 1972, is
9 amended as follows:

10 75-24-29. (1) This section applies to any person who
11 conducts business in this state and who, in the ordinary course of
12 the person's business functions, owns, licenses or maintains
13 personal information of any resident of this state.

14 (2) For purposes of this section, the following terms shall
15 have the meanings ascribed unless the context clearly requires
16 otherwise:

17 (a) "Breach of security" means unauthorized acquisition
18 of electronic files, media, databases or computerized data
19 containing personal information of any resident of this state when
20 access to the personal information has not been secured by



21 encryption or by any other method or technology that renders the
22 personal information unreadable or unusable;

23 (b) "Personal information" means an individual's first
24 name or first initial and last name in combination with any one or
25 more of the following data elements:

26 (i) Social security number;

27 (ii) Driver's license number, state identification
28 card number or tribal identification card number; or

29 (iii) An account number or credit or debit card
30 number in combination with any required security code, access code
31 or password that would permit access to an individual's financial
32 account; "personal information" does not include publicly
33 available information that is lawfully made available to the
34 general public from federal, state or local government records or
35 widely distributed media;

36 (iv) "Affected individual" means any individual
37 who is a resident of this state whose personal information was, or
38 is reasonably believed to have been, intentionally acquired by an
39 unauthorized person through a breach of security.

40 (3) A person who conducts business in this state shall
41 disclose any breach of security to all affected individuals. The
42 disclosure shall be made without unreasonable delay, subject to
43 the provisions of subsections (4) and (5) of this section and the
44 completion of an investigation by the person to determine the
45 nature and scope of the incident, to identify the affected



46 individuals, or to restore the reasonable integrity of the data
47 system. Notification shall not be required if, after an
48 appropriate investigation, the person reasonably determines that
49 the breach will not likely result in harm to the affected
50 individuals.

51 (4) Any person who conducts business in this state that
52 maintains computerized data which includes personal information
53 that the person does not own or license shall notify the owner or
54 licensee of the information of any breach of the security of the
55 data as soon as practicable following its discovery, if the
56 personal information was, or is reasonably believed to have been,
57 acquired by an unauthorized person for fraudulent purposes.

58 (5) Any notification required by this section shall be
59 delayed for a reasonable period of time if a law enforcement
60 agency determines that the notification will impede a criminal
61 investigation or national security and the law enforcement agency
62 has made a request that the notification be delayed. Any such
63 delayed notification shall be made after the law enforcement
64 agency determines that notification will not compromise the
65 criminal investigation or national security and so notifies the
66 person of that determination.

67 (6) Any notice required by the provisions of this section
68 may be provided by one (1) of the following methods: (a) written
69 notice; (b) telephone notice; (c) electronic notice, if the
70 person's primary means of communication with the affected



71 individuals is by electronic means or if the notice is consistent
72 with the provisions regarding electronic records and signatures
73 set forth in 15 USCS 7001; or (d) substitute notice, provided the
74 person demonstrates that the cost of providing notice in
75 accordance with paragraph (a), (b) or (c) of this subsection would
76 exceed Five Thousand Dollars (\$5,000.00), that the affected class
77 of subject persons to be notified exceeds five thousand (5,000)
78 individuals or the person does not have sufficient contact
79 information. Substitute notice shall consist of the following:
80 electronic mail notice when the person has an electronic mail
81 address for the affected individuals; conspicuous posting of the
82 notice on the website of the person if the person maintains one;
83 and notification to major statewide media, including newspapers,
84 radio and television.

85 (7) Any person who conducts business in this state that
86 maintains its own security breach procedures as part of an
87 information security policy for the treatment of personal
88 information, and otherwise complies with the timing requirements
89 of this section, shall be deemed to be in compliance with the
90 security breach notification requirements of this section if the
91 person notifies affected individuals in accordance with the
92 person's policies in the event of a breach of security. Any
93 person that maintains such a security breach procedure pursuant to
94 the rules, regulations, procedures or guidelines established by
95 the primary or federal functional regulator, as defined in 15 USCS



96 6809(2), shall be deemed to be in compliance with the security
97 breach notification requirements of this section, provided the
98 person notifies affected individuals in accordance with the
99 policies or the rules, regulations, procedures or guidelines
100 established by the primary or federal functional regulator in the
101 event of a breach of security of the system.

102 (8) (a) If the number of persons a covered entity is
103 required to notify under this section exceeds one hundred (100),
104 the entity shall provide written notice of the breach to the
105 Office of the Attorney General as expeditiously as possible and
106 without unreasonable delay.

107 (b) Written notice to the Attorney General shall
108 include all of the following:

109 (i) A synopsis of the events surrounding the
110 breach at the time that notice is provided;

111 (ii) The approximate number of individuals in the
112 state who were affected by the breach;

113 (iii) Any services related to the breach being
114 offered or scheduled to be offered, without charge, by the covered
115 entity to individuals and instructions on how to use the services;
116 and

117 (iv) The name, address, telephone number and email
118 address of the employee or agent of the disclosing party from whom
119 additional information may be obtained about the breach.



120 (c) If a covered entity learns that in some material
121 respect the written notice required under this subsection is
122 incomplete or incorrect, such entity shall, as expeditiously as
123 possible and without unreasonable delay, provide the Attorney
124 General with supplemental or updated information regarding the
125 breach.

126 (d) Information marked as confidential that is obtained
127 by the Attorney General under this section is exempt from the
128 Mississippi Public Records Act of 1983.

129 (9) The Attorney General is authorized to promulgate rules
130 and regulations necessary to carry out enforce and effectuate the
131 provisions of this section.

132 (* * *10) Failure to comply with the requirements of this
133 section shall constitute an unfair trade practice and shall be
134 enforced by the Attorney General; however, nothing in this section
135 may be construed to create a private right of action.

136 **SECTION 2.** This act shall take effect and be in force from
137 and after July 1, 2022.

