

By: Senator(s) DeLano

To: Technology; Judiciary,
Division B

SENATE BILL NO. 2528

1 AN ACT TO AMEND SECTION 75-24-29, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE ANY BUSINESS THAT HAS EXPERIENCED A BREACH OF SECURITY
3 OF THE PERSONAL INFORMATION OF 100 OR MORE AFFECTED INDIVIDUALS TO
4 PROVIDE WRITTEN NOTICE TO THE ATTORNEY GENERAL AS EXPEDITIOUSLY AS
5 POSSIBLE AND WITHOUT UNREASONABLE DELAY; TO PROVIDE THAT THE
6 ATTORNEY GENERAL IS EMPOWERED TO PROMULGATE RULES AND REGULATIONS
7 NECESSARY TO ENFORCE AND EFFECTUATE THE PROVISIONS OF THIS ACT;
8 AND FOR RELATED PURPOSES.

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

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

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

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

19 (a) "Breach of security" means unauthorized acquisition
20 of electronic files, media, databases or computerized data
21 containing personal information of any resident of this state when



22 access to the personal information has not been secured by
23 encryption or by any other method or technology that renders the
24 personal information unreadable or unusable;

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

28 (i) Social security number;

29 (ii) Driver's license number, state identification
30 card number or tribal identification card number; or

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

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

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



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

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

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

69 (6) Any notice required by the provisions of this section
70 may be provided by one (1) of the following methods: (a) written
71 notice; (b) telephone notice; (c) electronic notice, if the



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

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



97 the primary or federal functional regulator, as defined in 15 USCS
98 6809(2), shall be deemed to be in compliance with the security
99 breach notification requirements of this section, provided the
100 person notifies affected individuals in accordance with the
101 policies or the rules, regulations, procedures or guidelines
102 established by the primary or federal functional regulator in the
103 event of a breach of security of the system.

104 (8) Failure to comply with the requirements of this section
105 shall constitute an unfair trade practice and shall be enforced by
106 the Attorney General; however, nothing in this section may be
107 construed to create a private right of action.

108 (9) (a) If a covered entity is required to notify, in
109 complying with this section, one hundred (100) or more affected
110 individuals, the entity shall provide written notice of the breach
111 to the Office of the Attorney General as expeditiously as possible
112 and without unreasonable delay.

113 (b) Written notice to the Attorney General shall
114 include all of the following:

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

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

119 (iii) Any services related to the breach being
120 offered or scheduled to be offered, without charge, by the covered



121 entity to affected individuals and instructions on how to use the
122 services; and

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

126 (c) If a covered entity learns that in some material
127 respect, the written notice required under this subsection is
128 incomplete or incorrect, such entity shall, as expeditiously as
129 possible and without unreasonable delay, provide the Attorney
130 General with supplemental or updated information regarding the
131 breach.

132 (d) Information marked as confidential that is obtained
133 by the Attorney General under this section shall not be considered
134 a public record subject to disclosure under Section 25-61-1 et
135 seq.

136 (10) The Attorney General shall be empowered to promulgate
137 rules and regulations necessary to carry out, enforce and
138 effectuate the provisions of this section.

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

