

By: Senator(s) Williams

To: Technology

SENATE BILL NO. 2719

1 AN ACT TO AMEND SECTION 75-24-29, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE REPORTING OF A BREACH OF SECURITY TO THE ATTORNEY  
3 GENERAL; AND FOR RELATED PURPOSES.

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

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

7 75-24-29. (1) This section applies to any person who  
8 conducts business in this state and who, in the ordinary course of  
9 the person's business functions, owns, licenses or maintains  
10 personal information of any resident of this state.

11 (2) For purposes of this section, the following terms shall  
12 have the meanings ascribed unless the context clearly requires  
13 otherwise:

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



18 encryption or by any other method or technology that renders the  
19 personal information unreadable or unusable;

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

23 (i) Social security number;

24 (ii) Driver's license number, state identification  
25 card number or tribal identification card number; or

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

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

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



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

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

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

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



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

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



93 6809(2), shall be deemed to be in compliance with the security  
94 breach notification requirements of this section, provided the  
95 person notifies affected individuals in accordance with the  
96 policies or the rules, regulations, procedures or guidelines  
97 established by the primary or federal functional regulator in the  
98 event of a breach of security of the system.

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

104 (b) Such written notice to the Attorney General shall  
105 include all of the following:

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

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

110 (iii) Any services related to the breach the  
111 covered entity is offering or planning to offer to individuals  
112 free of charge and instructions on how to use such services; and

113 (iv) The name, address, telephone number and email  
114 address of the employee or agent of the covered entity from whom  
115 the Attorney General may obtain further information about the  
116 breach.



117           (c) If a covered entity learns that the written notice  
118 required under this subsection is materially incomplete or  
119 inaccurate, such entity shall provide the Attorney General with  
120 supplemental or updated information regarding the breach as  
121 expeditiously as possible and without unreasonable delay.

122           (d) All information obtained by the Attorney General  
123 under this section which is marked confidential is exempt from the  
124 Mississippi Public Records Act of 1983.

125           (9) The Attorney General is empowered to promulgate any  
126 rules and regulations necessary to enforce the provisions of this  
127 section.

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

132           **SECTION 2.** This act shall take effect and be in force from  
133 and after July 1, 2023.

