

TEXAS GOV'T CODE § 2054.1125

Government Data Breach

TRS exempted by Tex. Gov't Code § 825.103(e).

Government Code

Sec. 2054.1125. SECURITY **BREACH** NOTIFICATION BY STATE AGENCY. (a) In this section:

(1) "**Breach** of system security" has the meaning assigned by Section 521.053, Business & Commerce Code.

(2) "Sensitive personal information" has the meaning assigned by Section 521.002, Business & Commerce Code.

(b) A state agency that owns, licenses, or maintains computerized **data** that includes sensitive personal information shall comply, in the event of a **breach** of system security, with the notification requirements of Section 521.053, Business & Commerce Code, to the same extent as a person who conducts business in this state.

Added by Acts 2009, 81st Leg., R.S., Ch. 419, Sec. 4, eff. September 1, 2009.

Identity Theft Enforcement and Protection Act

Chapter 521 of the Business and Commerce Code

Sec. 521.053. NOTIFICATION REQUIRED FOLLOWING BREACH OF SECURITY OF COMPUTERIZED DATA. (a) In this section, "breach of system security" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person, including data that is encrypted if the person accessing the data has the key required to decrypt the data. Good faith acquisition of sensitive personal information by an employee or agent of the person for the purposes of the person is not a breach of system security unless the person uses or discloses the sensitive personal information in an unauthorized manner.

(b) A person who conducts business in this state and owns or licenses computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any resident of this state whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided by Subsection (d) or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(c) Any person who maintains computerized data that includes sensitive personal information not owned by the person shall notify the owner or license holder of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(d) A person may delay providing notice as required by Subsection (b) or (c) at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that the notification will not compromise the investigation.

(e) A person may give notice as required by Subsection (b) or (c) by providing:

- (1) written notice;
- (2) electronic notice, if the notice is provided in accordance with 15 U.S.C. Section 7001; or
- (3) notice as provided by Subsection (f).

(f) If the person required to give notice under Subsection (b) or (c) demonstrates that the cost of providing notice would exceed \$250,000, the number of affected persons exceeds 500,000, or the person does not have sufficient contact information, the notice may be given by:

- (1) electronic mail, if the person has electronic mail addresses for the affected persons;
- (2) conspicuous posting of the notice on the person's website; or
- (3) notice published in or broadcast on major statewide media.

(g) Notwithstanding Subsection (e), a person who maintains the person's own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice under this section complies with this section if the person notifies affected persons in accordance with that policy.

(h) If a person is required by this section to notify at one time more than 10,000 persons of a breach of system security, the person shall also notify each consumer reporting agency, as defined by 15 U.S.C. Section 1681a, that maintains files on consumers on a nationwide basis, of the timing, distribution, and content of the notices. The person shall provide the notice required by this subsection without unreasonable delay.