

**Senate File 2259 - Introduced**

SENATE FILE 2259  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3040)

**A BILL FOR**

1 An Act modifying provisions applicable to personal information  
2 security breach notification requirements, and making  
3 penalties applicable.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 715C.1, subsection 1, Code 2014, is  
2 amended to read as follows:

3 1. "*Breach of security*" means unauthorized acquisition  
4 of personal information maintained in computerized form by  
5 a person that compromises the security, confidentiality, or  
6 integrity of the personal information. "Breach of security"  
7 also means unauthorized acquisition of personal information  
8 maintained by a person in any medium, including on paper, that  
9 was transferred by the person to that medium from computerized  
10 form. Good faith acquisition of personal information by a  
11 person or that person's employee or agent for a legitimate  
12 purpose of that person is not a breach of security, provided  
13 that the personal information is not used in violation of  
14 applicable law or in a manner that harms or poses an actual  
15 threat to the security, confidentiality, or integrity of the  
16 personal information.

17 Sec. 2. Section 715C.1, subsection 11, unnumbered paragraph  
18 1, Code 2014, is amended to read as follows:

19 "*Personal information*" means an individual's first name or  
20 first initial and last name in combination with any one or more  
21 of the following data elements that relate to the individual  
22 if any of the data elements are not encrypted, redacted, or  
23 otherwise altered by any method or technology in such a manner  
24 that the name or data elements are unreadable or are encrypted,  
25 redacted, or otherwise altered by any method or technology but  
26 the keys to unencrypt, unredact, or otherwise read the data  
27 elements have been obtained through the breach of security:

28 Sec. 3. Section 715C.2, Code 2014, is amended to read as  
29 follows:

30 **715C.2 Security breach — ~~consumer~~ notification requirements**  
31 **— remedies.**

32 1. Any person who owns or licenses computerized data that  
33 includes a consumer's personal information that is used in  
34 the course of the person's business, vocation, occupation,  
35 or volunteer activities and that was subject to a breach

1 of security shall give notice of the breach of security  
2 following discovery of such breach of security, or receipt of  
3 notification under subsection 2, to any consumer whose personal  
4 information was included in the information that was breached.  
5 The consumer notification shall be made in the most expeditious  
6 manner possible and without unreasonable delay, consistent  
7 with the legitimate needs of law enforcement as provided in  
8 subsection 3, and consistent with any measures necessary to  
9 sufficiently determine contact information for the affected  
10 consumers, determine the scope of the breach, and restore the  
11 reasonable integrity, security, and confidentiality of the  
12 data.

13 2. Any person who maintains or otherwise possesses personal  
14 information on behalf of another person shall notify the owner  
15 or licensor of the information of any breach of security  
16 immediately following discovery of such breach of security if a  
17 consumer's personal information was included in the information  
18 that was breached.

19 3. The consumer notification requirements of this section  
20 may be delayed if a law enforcement agency determines that  
21 the notification will impede a criminal investigation and  
22 the agency has made a written request that the notification  
23 be delayed. The notification required by this section shall  
24 be made after the law enforcement agency determines that the  
25 notification will not compromise the investigation and notifies  
26 the person required to give notice in writing.

27 4. For purposes of this section, notification to the  
28 consumer may be provided by one of the following methods:

29 a. Written notice to the last available address the person  
30 has in the person's records.

31 b. Electronic notice if the person's customary method of  
32 communication with the consumer is by electronic means or is  
33 consistent with the provisions regarding electronic records and  
34 signatures set forth in chapter 554D and the federal Electronic  
35 Signatures in Global and National Commerce Act, 15 U.S.C.

1 § 7001.

2 *c.* Substitute notice, if the person demonstrates that  
3 the cost of providing notice would exceed two hundred fifty  
4 thousand dollars, that the affected class of consumers to be  
5 notified exceeds three hundred fifty thousand persons, or  
6 if the person does not have sufficient contact information  
7 to provide notice. Substitute notice shall consist of the  
8 following:

9 (1) Electronic mail notice when the person has an electronic  
10 mail address for the affected consumers.

11 (2) Conspicuous posting of the notice or a link to the  
12 notice on the internet site of the person if the person  
13 maintains an internet site.

14 (3) Notification to major statewide media.

15 5. Notice pursuant to this section shall include, at a  
16 minimum, all of the following:

17 *a.* A description of the breach of security.

18 *b.* The approximate date of the breach of security.

19 *c.* The type of personal information obtained as a result of  
20 the breach of security.

21 *d.* Contact information for consumer reporting agencies.

22 *e.* Advice to the consumer to report suspected incidents  
23 of identity theft to local law enforcement or the attorney  
24 general.

25 6. Notwithstanding subsection 1, notification is not  
26 required if, after an appropriate investigation or after  
27 consultation with the relevant federal, state, or local  
28 agencies responsible for law enforcement, the person determined  
29 that no reasonable likelihood of financial harm to the  
30 consumers whose personal information has been acquired has  
31 resulted or will result from the breach. Such a determination  
32 must be documented in writing and the documentation must be  
33 maintained for five years.

34 7. This section does not apply to any of the following:

35 *a.* A person who complies with notification requirements or

1 breach of security procedures that provide greater protection  
2 to personal information and at least as thorough disclosure  
3 requirements than that provided by this section pursuant to  
4 the rules, regulations, procedures, guidance, or guidelines  
5 established by the person's primary or functional federal  
6 regulator.

7     *b.* A person who complies with a state or federal law  
8 that provides greater protection to personal information and  
9 at least as thorough disclosure requirements for breach of  
10 security or personal information than that provided by this  
11 section.

12     *c.* A person who is subject to and complies with regulations  
13 promulgated pursuant to Title V of the Gramm-Leach-Bliley Act  
14 of 1999, 15 U.S.C. § 6801 - 6809.

15     8. Any person who owns or licenses computerized data that  
16 includes a consumer's personal information that is used in  
17 the course of the person's business, vocation, occupation,  
18 or volunteer activities and that was subject to a breach of  
19 security requiring notification to more than five hundred  
20 persons pursuant to this section shall give written notice of  
21 the breach of security following discovery of such breach of  
22 security, or receipt of notification under subsection 2, to the  
23 director of the consumer protection division of the office of  
24 the attorney general within three business days after giving  
25 notice of the breach of security to any consumer pursuant to  
26 this section.

27     ~~8.~~ 9. a. A violation of this chapter is an unlawful  
28 practice pursuant to section 714.16 and, in addition to the  
29 remedies provided to the attorney general pursuant to section  
30 714.16, subsection 7, the attorney general may seek and obtain  
31 an order that a party held to violate this section pay damages  
32 to the attorney general on behalf of a person injured by the  
33 violation.

34     *b.* The rights and remedies available under this section are  
35 cumulative to each other and to any other rights and remedies

1 available under the law.

2

EXPLANATION

3

The inclusion of this explanation does not constitute agreement with  
4 the explanation's substance by the members of the general assembly.

4

5 This bill relates to notification requirements applicable  
6 to security breaches involving consumer personal information  
7 contained in Code chapter 715C.

8 The bill includes within the definition of a "breach of  
9 security" the unauthorized acquisition of personal information  
10 maintained by a person in any medium, including on paper, that  
11 was transferred by the person to that medium from computerized  
12 form. The bill modifies the definition of "personal  
13 information" to add that designated data elements relating to  
14 the individual constitute personal information if they are  
15 encrypted, redacted, or otherwise altered by any method or  
16 technology but the keys to unencrypt, unredact, or otherwise  
17 read the data elements have been obtained through a security  
18 breach.

19 The bill also requires a person subject to the Code chapter's  
20 consumer notification requirements who was subject to a breach  
21 of security requiring notification of more than 500 persons  
22 to give written notice of the breach to the director of the  
23 consumer protection division of the office of the attorney  
24 general. The notice must be given within three business days  
25 after giving notice of the breach to an impacted consumer.

26 Existing penalty provisions regarding unlawful practice  
27 and damages for violations of the consumer notification  
28 requirements would be applicable to the failure to provide  
29 notice of a breach of security as specified in the bill.