

Amendment No. 796

Assembly Amendment to Senate Bill No. 347 First Reprint

(BDR 15-15)

Proposed by: Committee on Judiciary**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
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Amend sec. 4, page 2, by deleting lines 13 through 21 and inserting:

“Sec. 4. “Vulnerable person” means a person who:

- 1. Suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or**
- 2. Has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.”.**

Amend sec. 10, pages 5 and 6, by deleting lines 33 through 43 on page 5 and lines 1 through 8 on page 6, and inserting:

~~“2. In addition to any other penalty, the court shall order a public officer or public employee convicted of violating subsection 1 to pay restitution, including without limitation any attorney’s fees and costs incurred to:~~

MSN/RBL

Date: 5/23/2005

S.B. No. 347—Makes various changes concerning personal identifying information.

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~~—(a) Repair the credit history or rating of the person whose personal identifying information the public officer or public employee obtained and used in violation of subsection 1; and~~

~~—(b) Satisfy a debt, lien or other obligation incurred by the person whose personal identifying information the public officer or public employee obtained and used in violation of subsection 1.~~

~~—3.]~~ ***A public officer or public employee who violates subsection 1 by obtaining and using the personal identifying information of an older person or a vulnerable person is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 7 years and a maximum term of not more than 20 years, and may be further punished by a fine of not more than \$100,000.***

3. Except as otherwise provided in subsection 4, a public”.

Amend sec. 10, page 6, line 20, by deleting “[4.] 5.” and inserting “4.”.

Amend sec. 10, page 6, line 21, by deleting “4” and inserting “3”.

Amend sec. 10, page 6, by deleting line 28 and inserting:

“5. Except as otherwise provided in subsection 6, a public”.

Amend sec. 10, page 6, line 33, by deleting “7.” and inserting “6.”.

Amend sec. 10, page 6, line 34, by deleting “6” and inserting “5”.

Amend sec. 10, page 6, line 42, by deleting “8.” and inserting “7.”.

Amend sec. 10, page 7, between lines 2 and 3, by inserting:

“8. In addition to any other penalty, the court shall order a public officer or public employee convicted of violating any provision of this section to pay restitution, including, without limitation, any attorney’s fees and costs incurred to:

(a) Repair the credit history or rating of the person whose personal identifying information the public officer or public employee obtained and used in violation of subsection 1; and

(b) Satisfy a debt, lien or other obligation incurred by the person whose personal identifying information the public officer or public employee obtained and used in violation of this section.”.

Amend sec. 14, page 9, line 10, after “3.” by inserting:

“An issuer that is subject to and complies with the privacy and security provisions of the Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801 et seq., shall be deemed to be in compliance with the notification requirements of this section.

4.”.

Amend sec. 17, page 10, line 21, by deleting “26,” and inserting “28,”.

Amend sec. 21, page 11, by deleting lines 6 and 7 and inserting:

“lawfully made available to the general public.”.

Amend the bill as a whole by renumbering sections 25 through 28 as sections 27 through 30 and adding new sections designated sections 25 and 26, following sec. 24, to read as follows:

“Sec. 25. A data collector who provides the notification required pursuant to section 24 of this act may commence an action for damages against a person that unlawfully obtained or benefited from personal information obtained from records maintained by the data collector. A data collector that prevails in such an action may be awarded damages which may include, without limitation, the reasonable costs of notification, reasonable attorney’s fees and costs and punitive damages when appropriate. The costs of notification include, without limitation, labor, materials, postage and any other costs reasonably related to providing the notification.

Sec. 26. In addition to any other penalty provided by law for the breach of the security of the system data maintained by a data collector, the court may order a person who is convicted of unlawfully obtaining or benefiting from personal information obtained as a result of such breach to pay restitution to the data collector for the reasonable costs incurred by the data collector in providing the notification required pursuant to section 24 of this act, including, without limitation, labor, materials, postage and any other costs reasonably related to providing such notification.”.

Amend sec. 27, page 13, by deleting lines 23 through 26 and inserting:

“1. A business in this State shall not transfer any personal information of a customer through an electronic transmission other than a facsimile to a person outside of the secure system of the business unless the business uses encryption to ensure the security of the electronic transmission. A secure system must not be accessible to any person outside of the business.”.

Amend sec. 28, page 13, line 34, by deleting “27,” and inserting “28,”.

Amend sec. 28, page 13, after line 35, by inserting:

“3. Section 29 of this act becomes effective on October 1, 2008.”.