127th General Assembly

Regular Session   **Sub. H. B. No. 648**

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Representative Jones

Cosponsors: Representatives Batchelder, Hottinger, Stebelton, Bubp, Nero, Grady, Setzer, Adams, Schindel, Wachtmann, Gardner, Widener, Brinkman, Zehringer, Uecker, Mecklenborg, Wagner, McGregor, R., McGregor, J., Combs, Sears, Goodwin, Daniels, Hite, Collier, Domenick, Reinhard, Schlichter

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A BILL

To amend section 1347.99 and to enact sections	1
1347.15 and 5703.211 of the Revised Code to	2
require state agencies to adopt rules governing	3
access to the confidential personal information	4
that they keep, to create a civil action for harm	5
resulting from an intentional violation of these	6
rules, to impose a criminal penalty for such an	7
intentional violation, and to require the	8
Department of Taxation to adopt rules to require	9
the tracking of searches of any of the	10
Department's databases.	11

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 1347.99 be amended and sections	12
1347.15 and 5703.211 of the Revised Code be enacted to read as	13
follows:	14

Sec. 1347.15. (A) As used in this section: 15

(1) "Confidential personal information" means personal   16
information that is not a public record for purposes of section   17
149.43 of the Revised Code.   18

(2) "State agency" does not include the courts or any   19
judicial agency, any state-assisted institution of higher   20
education, or any local agency.   21

(B) Each state agency shall adopt rules under Chapter 119. of   22
the Revised Code regulating access to the confidential personal   23
information the agency keeps, whether electronically or on paper.   24
The rules shall include all the following: 25

(1) Criteria for determining which employees of the state   26
agency may access, and which supervisory employees of the state   27
agency may authorize those employees to access, confidential   28
personal information;   29

(2) A list of the valid reasons, directly related to the   30
state agency's exercise of its powers or duties, for which only   31
employees of the state agency may access confidential personal   32
information;   33

(3) References to the applicable federal or state statutes or   34
administrative rules that make the confidential personal   35
information confidential;   36

(4) A procedure that requires the state agency to provide   37
that any upgrades to an existing computer system, or the   38
acquisition of any new computer system, that stores, manages, or   39
contains confidential personal information include a mechanism for   40
recording specific access by employees of the state agency to   41
confidential personal information and that until such an upgrade   42
or new acquisition occurs, the state agency keep a log that record   43
specific access by employees of the state agency to confidential   44

personal information; 45

(5) A procedure that requires the state agency to comply with 46
a written request from an individual for a list of confidential 47
personal information about the individual that the state agency 48
keeps, unless the confidential personal information relates to an 49
investigation based upon specific statutory authority by the state 50
agency about the individual; 51

(6) A procedure that requires the state agency to notify each 52
person whose confidential personal information has been accessed 53
for an invalid reason by employees of the state agency of that 54
specific access; 55

(7) A requirement that the director of the state agency 56
designate an employee of the state agency to serve as the data 57
privacy point of contact within the state agency to work with the 58
chief privacy officer within the office of information technology 59
to ensure that confidential personal information is properly 60
protected and that the state agency complies with this section and 61
rules adopted thereunder; 62

(8) A requirement that the data privacy point of contact for 63
the state agency complete a privacy impact assessment form; and 64

(9) A requirement that a password or other authentication 65
measure be used to access confidential personal information that 66
is kept electronically. 67

(C) Each state agency shall establish a training program for 68
all employees of the state agency described in division (B)(1) of 69
this section so that these employees are made aware of all 70
applicable statutes, rules, and policies governing their access to 71
confidential personal information. 72

The office of information technology shall develop the 73
privacy impact assessment form and post the form on its internet 74
web site by the first day of December each year. The form shall 75

assist each state agency in complying with the rules it adopted   76

under this section, in assessing the risks and effects of   77

collecting, maintaining, and disseminating confidential personal   78

information, and in adopting privacy protection processes designed   79

to mitigate potential risks to privacy.   80

(D) Each state agency shall distribute the policies included   81

in the rules adopted under division (B) of this section to each   82

employee of the agency described in division (B)(1) of this   83

section and shall require that the employee acknowledge receipt of   84

the copy of the policies. The state agency shall create a poster   85

that describes these policies and post it in a conspicuous place   86

in the main office of the state agency and in all locations where   87

the state agency has branch offices. The state agency shall post   88

the policies on the internet web site of the agency if it   89

maintains such an internet web site. A state agency that has   90

established a manual or handbook of its general policies and   91

procedures shall include these policies in the manual or handbook.   92

(E) No collective bargaining agreement entered into under   93

Chapter 4117. of the Revised Code on or after the effective date   94

of this section shall prohibit disciplinary action against or   95

termination of an employee of a state agency who is found to have   96

accessed, disclosed, or used personal confidential information in   97

violation of a rule adopted under division (B) of this section or   98

as otherwise prohibited by law.   99

(F) The auditor of state shall review the procedures and   100

policies included in a rule adopted under division (B) of this   101

section, shall ensure compliance with this section, and may   102

include citations or recommendations relating to this section in   103

any audit report issued under section 117.11 of the Revised Code.   104

(G) A person who is harmed by a violation of a rule of a   105

state agency described in division (B) of this section has a cause   106

of action to recover damages and reasonable attorney's fees from   107

any person who directly and proximately caused the harm. The   108

action may be commenced in the county where the violation   109

occurred, in the county where the person bringing the action   110

resides, or in Franklin county.   111

(H)(1) No person shall knowingly access confidential personal   112

information in violation of a rule of a state agency described in   113

division (B) of this section.   114

(2) No person shall knowingly use or disclose confidential   115

personal information in a manner prohibited by law.   116

(3) No state agency shall employ a person who has been   117

convicted of or pleaded guilty to a violation of division (H)(1)   118

or (2) of this section.   119

(4) A violation of division (H)(1) or (2) of this section is   120

a violation of a state statute for purposes of division (A) of   121

section 124.341 of the Revised Code.   122

Sec. 1347.99. (A) No public official, public employee, or   123

other person who maintains, or is employed by a person who   124

maintains, a personal information system for a state or local   125

agency shall purposely refuse to comply with division (E), (F),   126

(G), or (H) of section 1347.05, section 1347.071, division (A),   127

(B), or (C) of section 1347.08, or division (A) or (C) of section   128

1347.09 of the Revised Code. Whoever violates this section is   129

guilty of a minor misdemeanor.   130

(B) Whoever violates division (H)(1) or (2) of section   131

1347.15 of the Revised Code is guilty of a misdemeanor of the   132

first degree.   133

Sec. 5703.211. The tax commissioner shall adopt rules under   134

Chapter 119. of the Revised Code that require that any search of   135

any of the databases of the department of taxation be tracked so   136

that administrators of the database or investigators can identify   137

each account holder who conducted a search of the database.   138

    Section 2. That existing section 1347.99 of the Revised Code   139
is hereby repealed.   140