

As Reported by the Senate Judiciary--Criminal Justice Committee

127th General Assembly

Regular Session

2007-2008

Sub. H. B. No. 648

Representative Jones

Cosponsors: Representatives Batchelder, Hottinger, Stebelton, Bupp, 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, Aslanides, Bacon, Blessing, Carmichael, Ciafardini, Coley, Core, DeWine, Dolan, Evans, Flowers, Gibbs, Hagan, J., Huffman, Hughes, Schneider, Stewart, J., Webster, White, Wolpert
Senators Grendell, Austria, Schaffer, Turner, Fedor, Stivers, Faber

—

A B I L L

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 generally 9
require 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 do all of 37
the following: 38

(a) Provide that any upgrades to an existing computer system, 39
or the acquisition of any new computer system, that stores, 40
manages, or contains confidential personal information include a 41
mechanism for recording specific access by employees of the state 42

agency to confidential personal information; 43

(b) Until an upgrade or new acquisition of the type described 44
in division (B)(4)(a) of this section occurs, except as otherwise 45
provided in division (C)(1) of this section, keep a log that 46
records specific access by employees of the state agency to 47
confidential personal information; 48

(5) A procedure that requires the state agency to comply with 49
a written request from an individual for a list of confidential 50
personal information about the individual that the state agency 51
keeps, unless the confidential personal information relates to an 52
investigation about the individual based upon specific statutory 53
authority by the state agency; 54

(6) A procedure that requires the state agency to notify each 55
person whose confidential personal information has been accessed 56
for an invalid reason by employees of the state agency of that 57
specific access; 58

(7) A requirement that the director of the state agency 59
designate an employee of the state agency to serve as the data 60
privacy point of contact within the state agency to work with the 61
chief privacy officer within the office of information technology 62
to ensure that confidential personal information is properly 63
protected and that the state agency complies with this section and 64
rules adopted thereunder; 65

(8) A requirement that the data privacy point of contact for 66
the state agency complete a privacy impact assessment form; and 67

(9) A requirement that a password or other authentication 68
measure be used to access confidential personal information that 69
is kept electronically. 70

(C)(1) A procedure adopted pursuant to division (B)(4) of 71
this section shall not require a state agency to record in the log 72
it keeps under division (B)(4)(b) of this section any specific 73

access by any employee of the agency to confidential personal 74
information in any of the following circumstances: 75

(a) The access occurs as a result of research performed for 76
official agency purposes, routine office procedures, or incidental 77
contact with the information, unless the conduct resulting in the 78
access is specifically directed toward a specifically named 79
individual or a group of specifically named individuals. 80

(b) The access is to confidential personal information about 81
an individual, and the access occurs as a result of a request by 82
that individual for confidential personal information about that 83
individual. 84

(2) Each state agency shall establish a training program for 85
all employees of the state agency described in division (B)(1) of 86
this section so that these employees are made aware of all 87
applicable statutes, rules, and policies governing their access to 88
confidential personal information. 89

The office of information technology shall develop the 90
privacy impact assessment form and post the form on its internet 91
web site by the first day of December each year. The form shall 92
assist each state agency in complying with the rules it adopted 93
under this section, in assessing the risks and effects of 94
collecting, maintaining, and disseminating confidential personal 95
information, and in adopting privacy protection processes designed 96
to mitigate potential risks to privacy. 97

(D) Each state agency shall distribute the policies included 98
in the rules adopted under division (B) of this section to each 99
employee of the agency described in division (B)(1) of this 100
section and shall require that the employee acknowledge receipt of 101
the copy of the policies. The state agency shall create a poster 102
that describes these policies and post it in a conspicuous place 103
in the main office of the state agency and in all locations where 104

the state agency has branch offices. The state agency shall post 105
the policies on the internet web site of the agency if it 106
maintains such an internet web site. A state agency that has 107
established a manual or handbook of its general policies and 108
procedures shall include these policies in the manual or handbook. 109

(E) No collective bargaining agreement entered into under 110
Chapter 4117. of the Revised Code on or after the effective date 111
of this section shall prohibit disciplinary action against or 112
termination of an employee of a state agency who is found to have 113
accessed, disclosed, or used personal confidential information in 114
violation of a rule adopted under division (B) of this section or 115
as otherwise prohibited by law. 116

(F) The auditor of state shall obtain evidence that state 117
agencies adopted the required procedures and policies in a rule 118
under division (B) of this section, shall obtain evidence 119
supporting whether the state agency is complying with those 120
policies and procedures, and may include citations or 121
recommendations relating to this section in any audit report 122
issued under section 117.11 of the Revised Code. 123

(G) A person who is harmed by a violation of a rule of a 124
state agency described in division (B) of this section may bring 125
an action in the court of claims, as described in division (F) of 126
section 2743.02 of the Revised Code, against any person who 127
directly and proximately caused the harm. 128

(H)(1) No person shall knowingly access confidential personal 129
information in violation of a rule of a state agency described in 130
division (B) of this section. 131

(2) No person shall knowingly use or disclose confidential 132
personal information in a manner prohibited by law. 133

(3) No state agency shall employ a person who has been 134
convicted of or pleaded guilty to a violation of division (H)(1) 135

or (2) of this section. 136

(4) A violation of division (H)(1) or (2) of this section is 137
a violation of a state statute for purposes of division (A) of 138
section 124.341 of the Revised Code. 139

Sec. 1347.99. (A) No public official, public employee, or 140
other person who maintains, or is employed by a person who 141
maintains, a personal information system for a state or local 142
agency shall purposely refuse to comply with division (E), (F), 143
(G), or (H) of section 1347.05, section 1347.071, division (A), 144
(B), or (C) of section 1347.08, or division (A) or (C) of section 145
1347.09 of the Revised Code. Whoever violates this section is 146
guilty of a minor misdemeanor. 147

(B) Whoever violates division (H)(1) or (2) of section 148
1347.15 of the Revised Code is guilty of a misdemeanor of the 149
first degree. 150

Sec. 5703.211. (A) The tax commissioner shall adopt rules 151
under Chapter 119. of the Revised Code that, except as otherwise 152
provided in division (B) of this section, require that any search 153
of any of the databases of the department of taxation be tracked 154
so that administrators of the database or investigators can 155
identify each account holder who conducted a search of the 156
database. 157

(B) The rules adopted under division (A) of this section 158
shall not require the tracking of any search of any of the 159
databases of the department conducted by an account holder in any 160
of the following circumstances: 161

(1) The search occurs as a result of research performed for 162
official agency purposes, routine office procedures, or incidental 163
contact with the information, unless the search is specifically 164
directed toward a specifically named individual or a group of 165

specifically named individuals. 166

(2) The search is for information about an individual, and it 167

is performed as a result of a request by that individual for 168

information about that individual. 169

Section 2. That existing section 1347.99 of the Revised Code 170

is hereby repealed. 171