

State Privacy and Security Coalition, Inc.

March 3, 2015

The Honorable Steve Cassano
Chair, Government Administrations & Elections Committee
Legislative Office Building, Room 2200
Hartford, CT 06106

The Honorable Ed Jutila
Chair, Government Administrations & Elections Committee
Legislative Office Building, Room 2200
Hartford, CT 06106

Re: Concerns Regarding Connecticut S.B. 949 – Data Security

Dear Chair Cassano and Chair Jutila:

The State Privacy & Security Coalition, which is comprised of 25 leading communications, technology, retail, and media companies, and 6 trade associations, writes to express several significant concerns regarding to S.B. 949. Our primary concerns are: (i) the remarkable overbreadth of the definition of “confidential information” in the bill, and (ii) the unrealistically short timeframe the bill would set for contractors to notify the Attorney General of a breach.

The proposed definition of “confidential information” in this bill would include information that is far from confidential. The definition specifically includes information that is very often publicly available and easily searchable not only in government records but also on any search engine or social media, such as “an individual’s name [or] date of birth.” Moreover, the definition says that “any name, number or other information that may be used, alone or in conjunction with any other information, to identify a specific individual” is considered confidential. Again, this could include information, such as a person’s hometown or a LinkedIn profile picture, that is readily available from non-governmental sources and therefore should not be considered “confidential information”.

This overbreadth in the “confidential information” definition would have real costs for the state because other parts of the bill would impose costly security and breach notice requirements for all data covered by this definition. While such security measures make sense for personal information covered by the Connecticut’s breach notice law, when applied to this huge range of non-sensitive information, they would make it much more costly for contractors to handle “confidential information”. These costs would likely be passed along to state taxpayers and divert resources from deploying further security protections for truly sensitive data.

We are equally concerned about the bill’s unrealistically tight notice deadlines: (i) of 24 hours in which contractors would be obliged to notify the state contracting agency and Attorney General of a breach and (ii) of 3 days in which to draft a detailed report about any breach. Data breaches often

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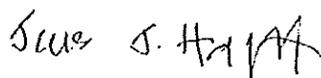
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require quite complex forensic investigations in order to determine their scope. As Connecticut's breach notification law rightly acknowledges, it takes time for a person suffering a data breach "to determine the nature and scope of the incident, to identify the individuals affected, or to restore the reasonable integrity of the data system."¹ Because even the most sophisticated companies in many cases will not fully understand within a week what happened and who was affected, it is unreasonable to require contractors to notify the state contracting agency and Attorney General within 24 hours, with a more detailed report to follow 48 hours later. Preparing notifications, especially a *detailed* report, takes time, and requiring contractors in Connecticut to draft detailed reports with 72 hours would in most cases require amendment later and divert resources away from investigating and remediating the breach. Ironically, requiring premature reports would in many cases undermine, rather than advance, the bill's goal of giving the government quick and accurate information regarding a breach of government data.

For the above reasons, and others, we respectfully ask that you significantly narrow S.B. 949 or do not move forward with the bill. Please feel free to contact us at the information below if you have any questions or would like to discuss our concerns in greater detail. Thank you for your time and consideration.

Sincerely,



James J. Halpert
General Counsel

¹ Conn. Gen Stat. § 36a-701b(b)(1) ("Such notice shall be made without unreasonable delay, subject to the provisions of subsection (d) of this section and the completion of an investigation by such person to determine the nature and scope of the incident, to identify the individuals affected, or to restore the reasonable integrity of the data system. Such notification shall not be required if, after an appropriate investigation and consultation with relevant federal, state and local agencies responsible for law enforcement, the person reasonably determines that the breach will not likely result in harm to the individuals whose personal information has been acquired and accessed."), available at http://www.cga.ct.gov/current/pub/chap_669.htm#sec_36a-701b.