



General Assembly

Amendment

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LCO No. 8337



Offered by:

SEN. LOONEY, 11th Dist.

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To: Subst. Senate Bill No. 949

File No. 705

Cal. No. 401

"AN ACT IMPROVING DATA SECURITY AND AGENCY EFFECTIVENESS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective July 1, 2015*) (a) As used in this section
4 and section 2 of this act:

5 (1) "Contractor" means an individual, business or other entity that is
6 receiving confidential information from a state contracting agency or
7 agent of the state pursuant to a written agreement to perform services
8 for the state.

9 (2) "State agency" means any agency with a department head, as
10 defined in section 4-5 of the general statutes.

11 (3) "State contracting agency" means any state agency disclosing

12 confidential information to a contractor pursuant to a written
13 agreement with such contractor for the performance of services for the
14 state.

15 (4) "Confidential information" means an individual's name, date of
16 birth, mother's maiden name, motor vehicle operator's license number,
17 Social Security number, employee identification number, employer or
18 taxpayer identification number, alien registration number, government
19 passport number, health insurance identification number, demand
20 deposit account number, savings account number, credit card number,
21 debit card number or unique biometric data such as fingerprint, voice
22 print, retina or iris image, or other unique physical representation,
23 personally identifiable information subject to 34 CFR 99, as amended
24 from time to time and protected health information as defined in 45
25 CFR 160.103, as amended from time to time. In addition, "confidential
26 information" includes any information that a state agency identifies as
27 confidential to the contractor. "Confidential information" does not
28 include information that may be lawfully obtained from publicly
29 available sources or from federal, state, or local government records
30 that are lawfully made available to the general public.

31 (5) "Confidential information breach" means an instance where an
32 unauthorized person or entity accesses confidential information that is
33 subject to or otherwise used in conjunction with any part of a contract
34 with the state in any manner, including, but not limited to, the
35 following occurrences: (A) Any confidential information that is not
36 encrypted or secured by any other method or technology that renders
37 the personal information unreadable or unusable is misplaced, lost,
38 stolen or subject to unauthorized access; (B) one or more third parties
39 have accessed, or taken control or possession of, without prior written
40 authorization from the state, (i) any confidential information that is not
41 encrypted or protected, or (ii) any encrypted or protected confidential
42 information together with the confidential process or key that is
43 capable of compromising the integrity of the confidential information;
44 or (C) there is a substantial risk of identity theft or fraud of the client of

45 the state contracting agency, the contractor, the state contracting
46 agency or the state.

47 (b) Except as provided in section 2 of this act, every agreement that
48 requires a state contracting agency to share confidential information
49 with a contractor shall require the contractor to, at a minimum, do the
50 following:

51 (1) At its own expense, protect from a confidential information
52 breach any and all confidential information that it comes to possess or
53 control, wherever and however stored or maintained;

54 (2) Implement and maintain a comprehensive data-security
55 program for the protection of confidential information. The safeguards
56 contained in such program shall be consistent with and comply with
57 the safeguards for protection of confidential information as set forth in
58 all applicable federal and state law and written policies of the state
59 contained in the agreement. Such data-security program shall include,
60 but not be limited to, the following: (A) A security policy for contractor
61 employees related to the storage, access and transportation of data
62 containing confidential information; (B) reasonable restrictions on
63 access to records containing confidential information, including the
64 area where such records are kept and secure passwords for
65 electronically stored records; (C) a process for reviewing policies and
66 security measures at least annually; and (D) an active and ongoing
67 employee security awareness program that is mandatory for all
68 employees who may have access to confidential information provided
69 by the state contracting agency that, at a minimum, advises such
70 employees of the confidentiality of the information, the safeguards
71 required to protect the information and any applicable civil and
72 criminal penalties for noncompliance pursuant to state and federal
73 law;

74 (3) Limit access to confidential information to authorized contractor
75 employees and authorized agents of the contractor, for authorized
76 purposes as necessary for the completion of the contracted services;

77 (4) Maintain all electronic data constituting confidential information
78 obtained from state contracting agencies: (A) In a secure server; (B) on
79 secure drives; (C) behind firewall protections and monitored by
80 intrusion detection software; and (D) in a manner where access is
81 restricted to authorized employees and their authorized agents;

82 (5) Implement, maintain and update security and breach
83 investigation procedures that are appropriate given the nature of the
84 information disclosed and that are reasonably designed to protect the
85 confidential information from unauthorized access, use, modification,
86 disclosure, manipulation or destruction; and

87 (6) Specify how the cost of any notification about, or investigation
88 into, a confidential information breach is to be apportioned when
89 confidential information possessed or controlled by the state
90 contracting agency or contractor is the subject of such a breach.

91 (c) A contractor shall not:

92 (1) Store data constituting confidential information on stand-alone
93 computer or notebook hard disks or portable storage devices such as
94 external or removable hard drives, flash cards, flash drives, compact
95 disks or digital video disks, except as provided for in the agreement
96 and including alternate measures of security assurance approved
97 pursuant to section 2 of this act; or

98 (2) Copy, reproduce or transmit data constituting confidential
99 information, except as necessary for the completion of the contracted
100 services.

101 (d) All copies of data constituting confidential information of any
102 type, including, but not limited to, any modifications or additions to
103 data that contain confidential information, are subject to the provisions
104 of this section in the same manner as the original data.

105 (e) Every contract between a state agency and a contractor involving
106 confidential information to be managed by the contractor shall include

107 specific provisions to require the contractor to:

108 (1) Notify the state contracting agency and the Attorney General as
109 soon as practical after the contractor becomes aware of or has reason to
110 believe that any confidential information that the contractor possesses
111 or controls has been subject to a confidential information breach;

112 (2) Immediately cease all use of the data provided by the state
113 contracting agency or developed internally by the contractor pursuant
114 to a contract with the state if so directed by the state contracting
115 agency;

116 (3) Submit a proposed timetable for submittal to the office of the
117 Attorney General and the state contracting agency either (A) a report
118 detailing the breach or suspected breach, or (B) a report detailing why,
119 upon further investigation, the contractor believes no breach has
120 occurred; and

121 (4) Submit to the office of the Attorney General and the state
122 contracting agency a plan to mitigate the effects of the breach and
123 specifying the steps taken to ensure future breaches do not occur,
124 except that no such plan is required of a contractor who has reported
125 that no breach has occurred under subdivision (3) of this subsection.
126 Any such plan and the report described in subdivision (3) of this
127 subsection shall be considered information described under
128 subdivision (5) of subsection (b) of section 1-210 of the general statutes.

129 (f) The notice required by subsection (e) of this section may be
130 delayed (1) at the state contracting agency's sole discretion based on
131 the report and, if applicable, the plan provided, or (2) if a law
132 enforcement agency or intelligence agency notifies the contractor that
133 such notification would impede a criminal investigation or jeopardize
134 homeland or national security. If notice is delayed pursuant to this
135 subsection, notification shall be given as soon as reasonably feasible by
136 the contractor to the applicable state contracting agency.

137 (g) The Attorney General may investigate any violation of this

138 section. If the Attorney General finds that a contractor has violated or
139 is violating any provision of this section, the Attorney General may
140 bring a civil action in the superior court for the judicial district of
141 Hartford under this section in the name of the state against such
142 contractor. Nothing in this section shall be construed to create a private
143 right of action.

144 (h) If the confidential information or personally identifiable
145 information, as defined in 34 CFR 99.3, that has been subject to a
146 confidential information breach consists of education records, the
147 contractor may be subject to a five-year ban from receiving access to
148 such information imposed by the Department of Education.

149 (i) The requirements of this section shall be in addition to the
150 requirements of section 36a-701b of the general statutes, and nothing in
151 this section shall be construed to supersede a contractor's obligations
152 pursuant to the Health Insurance Portability and Accountability Act of
153 1996 P.L. 104-191 (HIPAA), the Family Educational Rights and Privacy
154 Act of 1974, 20 USC 1232g, (FERPA) or any other applicable federal or
155 state law.

156 Sec. 2. (NEW) (*Effective July 1, 2015*) The Secretary of the Office of
157 Policy and Management, or the secretary's designee, may require
158 additional protections or alternate measures of security assurance for
159 any requirement of section 1 of this act where the facts and
160 circumstances warrant such additional requirement or alternate
161 measure after taking into consideration, among other factors, (1) the
162 type of confidential information being shared, (2) the amount of
163 confidential information being shared, (3) the purpose for which the
164 information is being shared, and (4) the types of services being
165 contracted for.

166 Sec. 3. Section 4-66 of the general statutes is repealed and the
167 following is substituted in lieu thereof (*Effective from passage*):

168 The Secretary of the Office of Policy and Management shall have the

169 following functions and powers:

170 (1) To keep on file information concerning the state's general
171 accounts;

172 (2) [to] To furnish all accounting statements relating to the financial
173 condition of the state as a whole, to the condition and operation of
174 state funds, to appropriations, to reserves and to costs of operations;

175 (3) [to] To furnish such statements as and when they are required
176 for administrative purposes and, at the end of each fiscal period, to
177 prepare and publish such financial statements and data as will convey
178 to the General Assembly the essential facts as to the financial
179 condition, the revenues and expenditures and the costs of operations
180 of the state government;

181 (4) [to] To furnish to the State Comptroller on or before the
182 twentieth day of each month cumulative monthly statements of
183 revenues and expenditures to the end of the last-completed month
184 together with [(1)] (A) a statement of estimated revenue by source to
185 the end of the fiscal year, at least in the same detail as appears in the
186 budget act, and [(2)] (B) a statement of appropriation requirements of
187 the state's General Fund to the end of the fiscal year itemized as far as
188 practicable for each budgeted agency, including estimates of lapsing
189 appropriations, unallocated lapsing balances and unallocated
190 appropriation requirements;

191 (5) [to] To transmit to the Office of Fiscal Analysis a copy of monthly
192 position data and monthly bond project run;

193 (6) [to] To inquire into the operation of, and make or recommend
194 improvement in, the methods employed in the preparation of the
195 budget and the procedure followed in determining whether the funds
196 expended by the departments, boards, commissions and institutions
197 supported in whole or in part by the state are wisely, judiciously and
198 economically expended and to submit such findings and
199 recommendations to the General Assembly at each regular session,

200 together with drafts of proposed legislation, if any;

201 (7) [to] To examine each department, state college, state hospital,
202 state-aided hospital, reformatory and prison and each other institution
203 or other agency supported in whole or in part by the state, except
204 public schools, for the purpose of determining the effectiveness of its
205 policies, management, internal organization and operating procedures
206 and the character, amount, quality and cost of the service rendered by
207 each such department, institution or agency;

208 (8) [to] To recommend, and to assist any such department,
209 institution or agency to effect, improvements in organization,
210 management methods and procedures and to report its findings and
211 recommendations and submit drafts of proposed legislation, if any, to
212 the General Assembly at each regular session;

213 (9) [to] To consider and devise ways and means whereby
214 comprehensive plans and designs to meet the needs of the several
215 departments and institutions with respect to physical plant and
216 equipment and whereby financial plans and programs for the capital
217 expenditures involved may be made in advance and to make or assist
218 in making such plans;

219 (10) [to] To devise and prescribe the form of operating reports that
220 shall be periodically required from the several departments, boards,
221 commissions, institutions and agencies supported in whole or in part
222 by the state;

223 (11) [to] To require the several departments, boards, commissions,
224 institutions and agencies to make such reports for such periods as said
225 secretary may determine; and

226 (12) [to] To verify the correctness of, and to analyze, all such reports
227 and to take such action as may be deemed necessary to remedy
228 unsatisfactory conditions disclosed by such reports.

229 Sec. 4. (NEW) (*Effective July 1, 2015*) (a) For purposes of this section:

230 (1) "Data" means statistical or factual information that: (A) is
231 reflected in a list, table, graph, chart, or other nonnarrative form that
232 can be digitally transmitted or processed; (B) is regularly created and
233 maintained by or on behalf of an executive agency; and (C) records a
234 measurement, transaction or determination related to the mission of
235 the executive agency or is provided to such agency by any third party
236 as required by any provision of law. "Data" does not include return
237 and return information, as defined in section 12-15 of the general
238 statutes;

239 (2) "Executive agency" means any agency with a department head,
240 as defined in section 4-5 of the general statutes, a constituent unit of
241 higher education, as defined in section 10a-1 of the general statutes, or
242 the Office of Higher Education, established by section 10a-1d of the
243 general statutes; and

244 (3) "State agency" means any office, department, board, council,
245 commission, institution, constituent unit of the state system of higher
246 education, technical high school or other agency in the executive,
247 legislative or judicial branch of state government.

248 (b) The Secretary of the Office of Policy and Management shall
249 develop a program to access, link, analyze and share data maintained
250 by executive agencies and to respond to queries from any state agency,
251 and from any private entity or person that would otherwise require
252 access to data maintained by two or more executive agencies. The
253 secretary shall give priority to queries that seek to measure outcomes
254 for state-funded programs or that may facilitate the development of
255 policies to promote the effective, efficient and best use of state
256 resources.

257 (c) The secretary shall establish policies and procedures to:

258 (1) Review and respond to queries to ensure (A) a response is
259 permitted under state and federal law; (B) the privacy and
260 confidentiality of protected data can be assured; and (C) the query is

261 based on sound research design principles; and

262 (2) Protect and ensure the security, privacy, confidentiality and
263 administrative value of data collected and maintained by executive
264 agencies.

265 (d) The secretary shall, in consultation with the Chief Information
266 Officer, develop and implement a secure information technology
267 solution to link data across executive agencies and to develop and
268 implement a detailed data security and safeguarding plan for the data
269 accessed or shared through such solution.

270 (e) The secretary shall request from, and execute a memorandum of
271 agreement with, each executive agency detailing data-sharing between
272 the agency and the Office of Policy and Management. Each such
273 agreement shall authorize the Office of Policy and Management to act
274 on behalf of the executive agency that is a party to such agreement for
275 purposes of data access, matching and sharing and shall include
276 provisions to ensure the proper use, security and confidentiality of the
277 data shared. Any executive agency that is requested by the secretary to
278 execute such an agreement shall comply with such request.

279 (f) The secretary shall notify the applicable executive agency when
280 data within such agency's custody has been requested under
281 subsection (b) of this section.

282 (g) The Office of Policy and Management shall be an authorized
283 representative of the Labor Commissioner or administrator of
284 unemployment compensation under chapter 567 of the general statutes
285 and shall receive upon request by the secretary any information in the
286 Labor Commissioner's possession relating to employment records that
287 may include, but need not be limited to: Employee name, Social
288 Security number, current residential address, name and address of the
289 employer, employer North American Industry Classification System
290 code and wages. In addition, the Labor Department, upon the request
291 of the Secretary of the Office of Policy and Management, shall furnish

292 unemployment compensation wage records contained in the quarterly
 293 returns required and maintained by the Labor Commissioner pursuant
 294 to section 31-254 of the general statutes, for purposes of this section.

295 (h) For the purposes of the Freedom of Information Act, as defined
 296 in section 1-200 of the general statutes, the Office of Policy and
 297 Management shall not be considered the agency with custody or
 298 control of any public records or files that are made accessible to said
 299 office pursuant to this section, but shall be considered the agency with
 300 custody and control of any public records or files created by the Office
 301 of Policy and Management, including, but not limited to, all reports
 302 generated by said office in response to queries posed under subsection
 303 (b) of this section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2015</i>	New section
Sec. 2	<i>July 1, 2015</i>	New section
Sec. 3	<i>from passage</i>	4-66
Sec. 4	<i>July 1, 2015</i>	New section