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# A BILL FOR AN ACT

RELATING TO PRIVACY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that House Concurrent  
2 Resolution No. 225, H.D. 1, S.D. 1, Regular Session of 2019,  
3 convened the twenty-first century privacy law task force, the  
4 membership of which consisted of individuals in government and  
5 the private sector having an interest or expertise in privacy  
6 law in the digital era. The concurrent resolution found that  
7 public use of the Internet and related technologies have  
8 significantly expanded in recent years and that a lack of  
9 meaningful government regulation has resulted in personal  
10 privacy being compromised. Accordingly, the legislature  
11 requested that the task force examine and make recommendations  
12 regarding existing privacy laws and rules to protect the privacy  
13 interests of the people of the State.

14           The legislature further finds that, following significant  
15 inquiry and discussion, the task force recommended that the  
16 outdated definition of "personal information" in chapter 487N,  
17 Hawaii Revised Statutes, which requires the public to be



1 notified of data breaches, should be updated and expanded. Many  
 2 identifying data elements relating to individuals are collected,  
 3 and, when exposed to the public in a data breach, can place an  
 4 individual at risk of identity theft or may compromise the  
 5 individual's personal safety. In its current form, chapter  
 6 487N, Hawaii Revised Statutes, is not comprehensive enough to  
 7 cover the additional identifiers.

8 Accordingly, the purpose of this Act is to update the  
 9 definition of "personal information" in chapter 487N, Hawaii  
 10 Revised Statutes, to include various personal identifiers and  
 11 data elements that are found in more comprehensive laws:

12 SECTION 2. Section 487N-1, Hawaii Revised Statutes, is  
 13 amended follows:

14 1. By adding two new definitions to be appropriately  
 15 inserted and to read:

16 "Identifier" means a common piece of information related  
 17 specifically to an individual that is commonly used to identify  
 18 the individual across technology platforms, including:

- 19 (1) A first name or initial, and last name;
- 20 (2) A user name for an online account;
- 21 (3) A mobile phone number; or



- 1        (4) An email address specific to the individual.
- 2        "Specified data element" means any of the following:
- 3        (1) An individual's social security number, either in its  
4        entirety or the last four or more digits;
- 5        (2) Driver's license number, federal or state  
6        identification card number, or passport number;
- 7        (3) A federal individual taxpayer identification number;
- 8        (4) An individual's financial account number, or credit or  
9        debit card number;
- 10       (5) A security code, access code, personal identification  
11       number, or password that would allow access to an  
12       individual's account;
- 13       (6) Unique biometric data generated from a measurement or  
14       analysis of human body characteristics used for  
15       authentication purposes, such as a fingerprint, voice  
16       print, retina or iris image, or other unique physical  
17       or digital representation of biometric data;
- 18       (7) A private key that is unique to an individual and is  
19       used to authenticate or sign an electronic record; and
- 20       (8) Health insurance policy number, subscriber  
21       identification number, medical identification number,



1 or any other unique number used by a health insurer to  
2 identify a person.

3 "Specified data element" does not include medical information  
4 that is protected by the Health Insurance Portability and  
5 Accountability Act of 1996 and its enacting regulations or other  
6 applicable federal or state law."

7 2. By amending the definition of "personal information" to  
8 read:

9 "~~Personal information" means an [individual's first name~~  
10 ~~or first initial and last name in combination with any one or~~  
11 ~~more of the following data elements, when either the name or the~~  
12 ~~data elements are not encrypted:~~

- 13 ~~(1) Social security number;~~  
14 ~~(2) Driver's license number or Hawaii identification card~~  
15 ~~number; or~~  
16 ~~(3) Account number, credit or debit card number, access~~  
17 ~~code, or password that would permit access to an~~  
18 ~~individual's financial account.]~~

19 identifier in combination with one or more specified data  
20 elements. "Personal information" does not include publicly  
21 available information that is lawfully made available to the



1 general public from federal, state, or local government  
2 records."

3 SECTION 3. Section 487N-2, Hawaii Revised Statutes, is  
4 amended by amending subsection (g) to read as follows:

5 "(g) The following businesses shall be deemed to be in  
6 compliance with this section:

7 (1) A financial institution that is subject to the federal  
8 Interagency Guidance on Response Programs for  
9 Unauthorized Access to Customer Information and  
10 Customer Notice published in the Federal Register on  
11 March 29, 2005, by the Board of Governors of the  
12 Federal Reserve System, the Federal Deposit Insurance  
13 Corporation, the Office of the Comptroller of the  
14 Currency, and the Office of Thrift Supervision, or  
15 subject to 12 C.F.R. Part 748; and any revisions,  
16 additions, or substitutions relating to the  
17 interagency guidance; ~~and~~

18 (2) Any health plan or healthcare provider that is subject  
19 to and in compliance with the standards for privacy or  
20 individually identifiable health information and the  
21 security standards for the protection of electronic



1 health information of the Health Insurance Portability  
2 and Accountability Act of 1996 [-]; and  
3 (3) Any licensee that is subject to the Insurance Data  
4 Security Law pursuant to article 3B, chapter 431."

5 SECTION 4. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun before its effective date.

8 SECTION 5. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Privacy; Attorney General; Personal Information; Notice

**Description:**

Modernizes the definition of "personal information" for the purposes of notifying affected persons of data and security breaches. Includes licensees subject to the Insurance Data Security Law pursuant to article 3B, chapter 431, Hawaii Revised Statutes, among the businesses deemed compliant with the chapter's security breach notice requirements. Effective 7/1/2050. (SD1)

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