

ASSEMBLY BILL

No. 1337

Introduced by Assembly Member Ward

February 21, 2025

An act to amend Sections 1798.3, 1798.16, 1798.17, 1798.19, 1798.20, 1798.24, 1798.24b, 1798.25, 1798.26, 1798.27, 1798.29, 1798.44, 1798.55, 1798.57, and 1798.68 of the Civil Code, relating to information privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1337, as introduced, Ward. Information Practices Act of 1977.

Existing law, the Information Practices Act of 1977, prescribes a set of requirements, prohibitions, and remedies applicable to agencies, as defined, with regard to their collection, storage, and disclosure of personal information, as defined. Existing law exempts from the provisions of the act counties, cities, any city and county, school districts, municipal corporations, districts, political subdivisions, and other local public agencies, as specified.

This bill would recast those provisions to, among other things, remove that exemption for local agencies. The bill would make other technical, nonsubstantive, and conforming changes. Because the bill would expand the duties of local officials, this bill would impose a state-mandated local program.

Existing law requires an agency to establish rules of conduct for persons involved in the design, development, operation, disclosure, or maintenance of records containing personal information and instruct those persons with respect to specified rules relevant to the act.

This bill would require that those rules established by the agency be consistent with applicable provisions of the State Administrative Manual

and the State Information Management Manual. The bill would prohibit an agency from using records containing personal information for any purpose or purposes other than the purpose or purposes for which that personal information was collected, except as required by state or federal law.

Existing law prohibits an agency from disclosing any personal information in a manner that would link the information disclosed to the individual to whom it pertains, except under specified circumstances.

This bill would revise the circumstances that may allow the disclosure of personal information in a manner that could link the information disclosed to the individual to whom it pertains, and would make conforming changes.

Existing law makes an intentional violation of any provision of the act, or of any rules or regulations adopted under the act, by an officer or employee of any agency a cause for discipline, including termination of employment.

This bill would also make a negligent violation of the act a cause for discipline.

Existing law provides that the intentional disclosure of medical, psychiatric, or psychological information in violation of the disclosure provisions of the act, that is not otherwise permitted by law, is punishable as a misdemeanor if the wrongful disclosure results in economic loss or personal injury to the individual to whom the information pertains.

This bill would remove the requirement that the wrongful disclosure result in economic loss or personal injury. Because the bill would expand the scope of an existing crime by deleting this condition, the bill would impose a state-mandated local program.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1798.3 of the Civil Code is amended to
2 read:
3 1798.3. As used in this chapter:
4 (a) The term “personal information” means any information
5 that is maintained by an agency that identifies or describes an
6 individual, including, but not limited to, the individual’s name,
7 social security number, physical description, home address, home
8 telephone number, education, financial matters, and medical or
9 employment history. It includes statements made by, or attributed
10 to, the individual.
11 (b) The term “agency” means every state *and local* office,
12 officer, department, division, bureau, board, commission, or other
13 state agency, except that the term agency shall not include:
14 (1) The California Legislature.
15 (2) Any agency established under Article VI of the California
16 Constitution.
17 (3) The State Compensation Insurance Fund, except as to any
18 records that contain personal information about the employees of
19 the State Compensation Insurance Fund.
20 ~~(4) A local agency, as defined in Section 7920.510 of the~~
21 ~~Government Code.~~
22 (c) The term “disclose” means to disclose, release, transfer,
23 disseminate, or otherwise communicate all or any part of any record
24 orally, in writing, or by electronic or any other means to any person
25 or entity.
26 (d) The term “individual” means a natural person.
27 (e) The term “maintain” includes maintain, acquire, use, or
28 disclose.
29 (f) The term “person” means any natural person, corporation,
30 partnership, limited liability company, firm, or association.

(g) The term “record” means any file or grouping of *personal* information ~~about an individual~~ that is maintained by an agency by reference to an identifying particular such as the individual’s name, photograph, finger or voice print, or a number or symbol assigned to the individual. *agency*.

~~(h) The term “system of records” means one or more records, which pertain to one or more individuals, which is maintained by any agency, from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual.~~

~~(i) The term “governmental entity,” except as used in Section 1798.26, means any branch of the federal government or of the local government.~~

~~(j)~~

~~(h)~~ The term “commercial purpose” means any purpose that has financial gain as a major objective. It does not include the gathering or dissemination of newsworthy facts by a publisher or broadcaster.

~~(k)~~

(i) The term “regulatory agency” means the Department of Financial Protection and Innovation, the Department of Insurance, the Bureau of Real Estate, and agencies of the United States or of any other state responsible for regulating financial institutions.

SEC. 2. Section 1798.16 of the Civil Code is amended to read:

1798.16. (a) Whenever an agency collects personal information, the agency shall maintain the source or sources of the information, unless the source is the data subject or ~~he or she~~ has received a copy of the source document, including, but not limited to, the name of any source who is an individual acting in ~~his or her~~ *their* own private or individual capacity. If the source is an agency, ~~governmental entity~~ *branch of the federal government*, or other organization, such as a corporation or association, this requirement can be met by maintaining the name of the agency, ~~governmental entity, branch of the federal government~~, or organization, as long as the smallest reasonably identifiable unit of that agency, ~~governmental entity, branch of the federal government~~, or organization is named.

(b) On or after July 1, 2001, unless otherwise authorized by the Department of Information Technology pursuant to Executive Order D-3-99, whenever an agency electronically collects personal information, as defined by Section 11015.5 of the Government

1 Code, the agency shall retain the source or sources or any
2 intermediate form of the information, if either are created or
3 possessed by the agency, unless the source is the data subject that
4 has requested that the information be discarded or the data subject
5 has received a copy of the source document.

6 (c) The agency shall maintain the source or sources of the
7 information in a readily accessible form so as to be able to provide
8 it to the data subject when they inspect any record pursuant to
9 Section 1798.34. This section shall not apply if the source or
10 sources are exempt from disclosure under the provisions of this
11 chapter.

12 SEC. 3. Section 1798.17 of the Civil Code is amended to read:

13 1798.17. Each agency shall provide on or with any form used
14 to collect personal information from individuals the notice specified
15 in this section. When contact with the individual is of a regularly
16 recurring nature, an initial notice followed by a periodic notice of
17 not more than one-year intervals shall satisfy this requirement.
18 This requirement is also satisfied by notification to individuals of
19 the availability of the notice in annual tax-related pamphlets or
20 booklets provided for them. The notice shall include all of the
21 following:

22 (a) The name of the agency and the division within the agency
23 that is requesting the information.

24 (b) The title, business address, and telephone number of the
25 agency official who is responsible for the ~~system of~~ records and
26 who shall, upon request, inform an individual regarding the location
27 of ~~his or her~~ *the individual's* records and the categories of any
28 persons who use the information in those records.

29 (c) The authority, whether granted by statute, regulation, or
30 executive order which authorizes the maintenance of the
31 information.

32 (d) With respect to each item of information, whether submission
33 of such information is mandatory or voluntary.

34 (e) The consequences, if any, of not providing all or any part
35 of the requested information.

36 (f) The ~~principal~~ purpose or purposes within the agency for
37 which the information is to be used.

38 (g) Any known or foreseeable disclosures which may be made
39 of the information pursuant to subdivision (e) or (f) of Section
40 1798.24.

1 (h) The individual's right of access to records containing
2 personal information which are maintained by the agency.

3 This section does not apply to any enforcement document issued
4 by an employee of a law enforcement agency in the performance
5 of ~~his or her~~ *the employee's* duties wherein the violator is provided
6 an exact copy of the document, or to accident reports whereby the
7 parties of interest may obtain a copy of the report pursuant to
8 Section 20012 of the Vehicle Code.

9 The notice required by this section does not apply to agency
10 requirements for an individual to provide ~~his or her~~ *the individual's*
11 name, identifying number, photograph, address, or similar
12 identifying information, if this information is used only for the
13 purpose of identification and communication with the individual
14 by the agency, except that requirements for an individual's social
15 security number shall conform with the provisions of the Federal
16 Privacy Act of 1974 (Public Law 93-579).

17 SEC. 4. Section 1798.19 of the Civil Code is amended to read:

18 1798.19. Each agency when it provides by contract for the
19 operation or maintenance of records containing personal
20 information to accomplish an agency function, shall cause,
21 consistent with its authority, the requirements of this chapter to be
22 applied to those records. For purposes of Article 10 (commencing
23 with Section 1798.55), any contractor and any employee of the
24 contractor, if the contract is agreed to on or after July 1, 1978, shall
25 be considered to be an employee of an agency. ~~Local government~~
26 ~~functions mandated by the state are not deemed agency functions~~
27 ~~within the meaning of this section.~~

28 SEC. 5. Section 1798.20 of the Civil Code is amended to read:

29 1798.20. ~~Each~~ *(a) Consistent with applicable provisions of*
30 *the State Administrative Manual and the State Information*
31 *Management Manual, each* agency shall establish rules of conduct
32 for persons involved in the design, development, operation,
33 disclosure, or maintenance of records containing personal
34 information and instruct each such person with respect to such
35 rules and the requirements of this chapter, including any other
36 rules and procedures adopted pursuant to this chapter and the
37 remedies and penalties for noncompliance.

38 *(b) An agency shall not use records containing personal*
39 *information for any purpose or purposes other than the purpose*
40 *or purposes for which that personal information was collected,*

1 *except as required by federal law, or as authorized or required by*
2 *state law.*

3 SEC. 6. Section 1798.24 of the Civil Code is amended to read:

4 1798.24. An agency shall not disclose any personal information
5 in a manner that ~~would~~ *could* link the information disclosed to the
6 individual to whom it pertains unless the information is disclosed,
7 as follows:

8 (a) To the individual to whom the information pertains.

9 (b) With the prior written voluntary consent of the individual
10 to whom the information pertains, but only if that consent has been
11 obtained not more than 30 days before the disclosure, or in the
12 time limit agreed to by the individual in the written consent.

13 (c) To the duly appointed guardian or conservator of the
14 individual or a person representing the individual if it can be proven
15 with reasonable certainty through the possession of agency forms,
16 documents, or correspondence that this person is the authorized
17 representative of the individual to whom the information pertains.

18 (d) To those officers, employees, attorneys, agents, or volunteers
19 of the agency that have custody of the information if the disclosure
20 is relevant and necessary in the ordinary course of the performance
21 of their official duties and ~~is related to~~ *further*s the purpose for
22 which the information was acquired.

23 (e) To a person, or to another agency if the transfer is necessary
24 for the transferee agency to perform its constitutional or statutory
25 duties, and the use ~~is compatible with a~~ *further*s the purpose for
26 which the information was collected and the use or transfer is in
27 accordance with Section 1798.25. With respect to information
28 transferred from a law enforcement or regulatory agency, or
29 information transferred to another law enforcement or regulatory
30 agency, a use is compatible if the use of the information requested
31 is needed in an investigation of unlawful activity under the
32 jurisdiction of the requesting agency or for licensing, certification,
33 or regulatory purposes by that agency.

34 (f) To ~~a governmental entity~~ *branch of the federal government*
35 if required by state or federal law.

36 (g) Pursuant to the California Public Records Act (Division 10
37 (commencing with Section 7920.000) of Title 1 of the Government
38 Code).

39 (h) To a person who has provided the agency with advance,
40 adequate written assurance that the information will be used solely

1 for statistical research or reporting purposes, but only if the
2 information to be disclosed is in a form that *cannot identify any*
3 *individual, and the written assurance includes a statement that*
4 *the person will not identify any individual; attempt to reidentify*
5 *the information.*

6 (i) Pursuant to a determination by the agency that maintains
7 information that compelling circumstances exist that affect the
8 health or safety of an individual, if upon the disclosure notification
9 is transmitted to the individual to whom the information pertains
10 at the individual's last known address. Disclosure shall not be
11 made if it is in conflict with other state or federal laws.

12 (j) To the State Archives as a record that has sufficient historical
13 or other value to warrant its continued preservation by the
14 California state government, or for evaluation by the Director of
15 General Services or the director's designee to determine whether
16 the record has further administrative, legal, or fiscal value.

17 (k) To any person pursuant to a subpoena, court order, or other
18 compulsory legal process if, before the disclosure, the agency
19 reasonably attempts to notify the individual to whom the record
20 pertains, and if the notification is not prohibited by law.

21 ~~(l) To any person pursuant to a search warrant.~~

22 ~~(m)~~

23 (l) Pursuant to Article 3 (commencing with Section 1800) of
24 Chapter 1 of Division 2 of the Vehicle Code.

25 ~~(n)~~

26 (m) For the sole purpose of verifying and paying government
27 health care service claims made pursuant to Division 9
28 (commencing with Section 10000) of the Welfare and Institutions
29 Code.

30 ~~(o) To a law enforcement or regulatory agency when required~~
31 ~~for an investigation of unlawful activity or for licensing,~~
32 ~~certification, or regulatory purposes, unless the disclosure is~~
33 ~~otherwise prohibited by law.~~

34 ~~(p)~~

35 (n) To another person or governmental organization to the extent
36 necessary to obtain information from the person or governmental
37 organization for an investigation by the agency of a failure to
38 comply with a specific state law that the agency is responsible for
39 enforcing.

40 ~~(q)~~

1 (o) To an adopted person and disclosure is limited to general
2 background information pertaining to the adopted person's
3 biological parents, if the information does not include or reveal
4 the identity of the biological parents.

5 (r)

6 (p) To a child or a grandchild of an adopted person and
7 disclosure is limited to medically necessary information pertaining
8 to the adopted person's biological parents. However, the
9 information, or the process for obtaining the information, shall not
10 include or reveal the identity of the biological parents. The State
11 Department of Social Services shall adopt regulations governing
12 the release of information pursuant to this subdivision. The
13 regulations shall require licensed adoption agencies to provide the
14 same services provided by the department as established by this
15 subdivision.

16 (s)

17 (q) To a committee of the Legislature or to a Member of the
18 Legislature, or the ~~member's~~ *Member's of the Legislature's* staff
19 if authorized in writing by the ~~member~~, *Member, of the Legislature*
20 if the ~~member~~ *Member of the Legislature* has permission to obtain
21 the information from the individual to whom it pertains or if the
22 ~~member~~ *Member of the Legislature* provides reasonable assurance
23 that the ~~member~~ *Member of the Legislature* is acting on behalf of
24 the individual.

25 (t)

26 (r) (1) To the University of California, a nonprofit educational
27 institution, an established nonprofit research institution performing
28 health or social services research, the Cradle-to-Career Data
29 System, for purposes consistent with the creation and execution
30 of the Cradle-to-Career Data System Act pursuant to Article 2
31 (commencing with Section 10860) of Chapter 8.5 of Part 7 of
32 Division 1 of Title 1 of the Education Code, or, in the case of
33 education-related data, another nonprofit entity, conducting
34 scientific research, if the request for information is approved by
35 the Committee for the Protection of Human Subjects (CPHS) for
36 the California Health and Human Services Agency (CHHSA) or
37 an institutional review board, as authorized in paragraphs (5) and
38 (6). The approval shall include a review and determination that all
39 the following criteria have been satisfied:

1 (A) The researcher has provided a plan sufficient to protect
2 personal information from improper use and disclosures, including
3 sufficient administrative, physical, and technical safeguards to
4 protect personal information from—~~reasonable~~ *reasonably*
5 anticipated threats to the security or confidentiality of the
6 information.

7 (B) The researcher has provided a sufficient plan to destroy or
8 return all personal information as soon as it is no longer needed
9 for the research project, unless the researcher has demonstrated
10 an ongoing need for the personal information for the research
11 project and has provided a long-term plan sufficient to protect the
12 confidentiality of that information.

13 (C) The researcher has provided sufficient written assurances
14 that the personal information will not be reused or disclosed to
15 any other person or entity, or used in any manner, not approved
16 in the research protocol, except as required by law or for authorized
17 oversight of the research project.

18 (2) The CPHS shall enter into a written agreement with the
19 Office of Cradle-to-Career Data, as defined in Section 10862 of
20 the Education Code, to assist the managing entity of that office in
21 its role as the institutional review board for the Cradle-to-Career
22 Data System.

23 (3) The CPHS or institutional review board shall, at a minimum,
24 accomplish all of the following as part of its review and approval
25 of the research project for the purpose of protecting personal
26 information held in agency databases:

27 (A) Determine whether the requested personal information is
28 needed to conduct the research.

29 (B) Permit access to personal information only if it is needed
30 for the research project.

31 (C) Permit access only to the minimum necessary personal
32 information needed for the research project.

33 (D) Require the assignment of unique subject codes that are not
34 derived from personal information in lieu of social security
35 numbers if the research can still be conducted without social
36 security numbers.

37 (E) If feasible, and if cost, time, and technical expertise permit,
38 require the agency to conduct a portion of the data processing for
39 the researcher to minimize the release of personal information.

1 (4) Reasonable costs to the agency associated with the agency's
2 process of protecting personal information under the conditions
3 of CPHS approval may be billed to the researcher, including, but
4 not limited to, the agency's costs for conducting a portion of the
5 data processing for the researcher, removing personal information,
6 encrypting or otherwise securing personal information, or assigning
7 subject codes.

8 (5) The CPHS may enter into written agreements to enable other
9 institutional review boards to provide the data security approvals
10 required by this subdivision, if the data security requirements set
11 forth in this subdivision are satisfied.

12 (6) Pursuant to paragraph (5), the CPHS shall enter into a written
13 agreement with the institutional review board established pursuant
14 to former Section 49079.6 of the Education Code. The agreement
15 shall authorize, commencing July 1, 2010, or the date upon which
16 the written agreement is executed, whichever is later, that board
17 to provide the data security approvals required by this subdivision,
18 if the data security requirements set forth in this subdivision and
19 the act specified in subdivision (a) of Section 49079.5 of the
20 Education Code are satisfied.

21 ~~(t)~~

22 (s) To an insurer if authorized by Chapter 5 (commencing with
23 Section 10900) of Division 4 of the Vehicle Code.

24 ~~(v)~~

25 (t) Pursuant to Section 450, 452, 8009, or 18396 of the Financial
26 Code.

27 ~~(w)~~

28 (u) For the sole purpose of participation in interstate data sharing
29 of prescription drug monitoring program information pursuant to
30 the California Uniform Controlled Substances Act (Division 10
31 (commencing with Section 11000) of the Health and Safety Code),
32 if disclosure is limited to prescription drug monitoring program
33 information.

34 This article does not require the disclosure of personal
35 information to the individual to whom the information pertains if
36 that information may otherwise be withheld as set forth in Section
37 1798.40.

38 SEC. 7. Section 1798.24b of the Civil Code is amended to
39 read:

1 1798.24b. (a) Notwithstanding Section 1798.24, except
2 subdivision ~~(v)~~ (t) thereof, information shall be disclosed to the
3 protection and advocacy agency designated by the Governor in
4 this state pursuant to federal law to protect and advocate for the
5 rights of people with disabilities, as described in Division 4.7
6 (commencing with Section 4900) of the Welfare and Institutions
7 Code.

8 (b) Information that shall be disclosed pursuant to this section
9 includes all of the following information:

- 10 (1) Name.
11 (2) Address.
12 (3) Telephone number.
13 (4) Any other information necessary to identify that person
14 whose consent is necessary for either of the following purposes:

15 (A) To enable the protection and advocacy agency to exercise
16 its authority and investigate incidents of abuse or neglect of people
17 with disabilities.

18 (B) To obtain access to records pursuant to Section 4903 of the
19 Welfare and Institutions Code.

20 SEC. 8. Section 1798.25 of the Civil Code is amended to read:

21 1798.25. (a) Each agency shall keep an accurate accounting
22 of the date, nature, and purpose of each disclosure of a record made
23 pursuant to subdivision (i), (k), ~~(l)~~, ~~(o)~~, or ~~(p)~~ (n) of Section
24 1798.24. This accounting shall also be required for disclosures
25 made pursuant to subdivision (e) or (f) of Section 1798.24 unless
26 notice of the type of disclosure has been provided pursuant to
27 Sections 1798.9 and 1798.10. The accounting shall also include
28 the name, title, and business address of the person or agency to
29 whom the disclosure was made. ~~For the purpose of an accounting~~
30 ~~of a disclosure made under subdivision (o) of Section 1798.24, it~~
31 ~~shall be sufficient for a law enforcement or regulatory agency to~~
32 ~~record the date of disclosure, the law enforcement or regulatory~~
33 ~~agency requesting the disclosure, and whether the purpose of the~~
34 ~~disclosure is for an investigation of unlawful activity under the~~
35 ~~jurisdiction of the requesting agency, or for licensing, certification,~~
36 ~~or regulatory purposes by that agency.~~

37 (b) Routine disclosures of information pertaining to crimes,
38 offenders, and suspected offenders to law enforcement or regulatory
39 agencies of federal, state, and local government shall be deemed

1 to be disclosures pursuant to subdivision (e) of Section 1798.24
2 for the purpose of meeting this requirement.

3 SEC. 9. Section 1798.26 of the Civil Code is amended to read:

4 1798.26. With respect to the sale of information concerning
5 the registration of any vehicle or the sale of information from the
6 files of drivers' licenses, the Department of Motor Vehicles shall,
7 by regulation, establish administrative procedures under which
8 any person making a request for information shall be required to
9 identify ~~himself or herself~~ *themselves* and state the reason for
10 making the request. These procedures shall provide for the
11 verification of the name and address of the person making a request
12 for the information and the department may require the person to
13 produce the information as it determines is necessary in order to
14 ensure that the name and address of the person are ~~his or her~~ *their*
15 true name and address. These procedures may provide for a 10-day
16 delay in the release of the requested information. These procedures
17 shall also provide for notification to the person to whom the
18 information ~~primarily~~ relates, as to what information was provided
19 and to whom it was provided. The department shall, by regulation,
20 establish a reasonable period of time for which a record of all the
21 foregoing shall be maintained.

22 The procedures required by this subdivision do not apply to any
23 governmental entity, any person who has applied for and has been
24 issued a requester code by the department, or any court of
25 competent jurisdiction.

26 SEC. 10. Section 1798.27 of the Civil Code is amended to
27 read:

28 1798.27. Each agency shall retain the accounting made pursuant
29 to Section 1798.25 for at least three years after the disclosure for
30 which the accounting is ~~made, or until the record is destroyed,~~
31 ~~whichever is shorter.~~ *made.*

32 Nothing in this section shall be construed to require retention of
33 the original documents for a three-year period, providing that the
34 agency can otherwise comply with the requirements of this section.

35 SEC. 11. Section 1798.29 of the Civil Code is amended to
36 read:

37 1798.29. (a) Any agency that owns or licenses computerized
38 data that includes personal information shall disclose any breach
39 of the security of the system following discovery or notification
40 of the breach in the security of the data to any resident of California

1 (1) whose unencrypted personal information was, or is reasonably
2 believed to have been, acquired by an unauthorized person, or, (2)
3 whose encrypted personal information was, or is reasonably
4 believed to have been, acquired by an unauthorized person and
5 the encryption key or security credential was, or is reasonably
6 believed to have been, acquired by an unauthorized person and
7 the agency that owns or licenses the encrypted information has a
8 reasonable belief that the encryption key or security credential
9 could render that personal information readable or usable. The
10 disclosure shall be made in the most expedient time possible and
11 without unreasonable delay, consistent with the legitimate needs
12 of law enforcement, as provided in subdivision (c), or any measures
13 necessary to determine the scope of the breach and restore the
14 reasonable integrity of the data system.

15 (b) Any agency that maintains computerized data that includes
16 personal information that the agency does not own shall notify the
17 owner or licensee of the information of any breach of the security
18 of the data immediately following discovery, if the personal
19 information was, or is reasonably believed to have been, acquired
20 by an unauthorized person.

21 (c) The notification required by this section may be delayed if
22 a law enforcement agency determines that the notification will
23 impede a criminal investigation. The notification required by this
24 section shall be made after the law enforcement agency determines
25 that it will not compromise the investigation.

26 (d) Any agency that is required to issue a security breach
27 notification pursuant to this section shall meet all of the following
28 requirements:

29 (1) The security breach notification shall be written in plain
30 language, shall be titled "Notice of Data Breach," and shall present
31 the information described in paragraph (2) under the following
32 headings: "What Happened," "What Information Was Involved,"
33 "What We Are Doing," "What You Can Do," and "For More
34 Information." Additional information may be provided as a
35 supplement to the notice.

36 (A) The format of the notice shall be designed to call attention
37 to the nature and significance of the information it contains.

38 (B) The title and headings in the notice shall be clearly and
39 conspicuously displayed.

(C) The text of the notice and any other notice provided pursuant to this section shall be no smaller than 10-point type.

(D) For a written notice described in paragraph (1) of subdivision (i), use of the model security breach notification form prescribed below or use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

[NAME OF INSTITUTION / LOGO]		Date: [insert date]
NOTICE OF DATA BREACH		
What Happened?		
What Information Was Involved?		
What We Are Doing.		
What You Can Do.		

1		
2	Other Important Information.	
3	[insert other important information]	
4		
5		
6		
7		
8		
9		
10		
11	For More	Call [telephone number] or go to [internet website]
12	Information.	
13		
14		

(E) For an electronic notice described in paragraph (2) of subdivision (i), use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

(2) The security breach notification described in paragraph (1) shall include, at a minimum, the following information:

(A) The name and contact information of the reporting agency subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

(D) Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

1 (F) The toll-free telephone numbers and addresses of the major
2 credit reporting agencies, if the breach exposed a social security
3 number or a driver's license or California identification card
4 number.

5 (3) At the discretion of the agency, the security breach
6 notification may also include any of the following:

7 (A) Information about what the agency has done to protect
8 individuals whose information has been breached.

9 (B) Advice on steps that people whose information has been
10 breached may take to protect themselves.

11 (e) Any agency that is required to issue a security breach
12 notification pursuant to this section to more than 500 California
13 residents as a result of a single breach of the security system shall
14 electronically submit a single sample copy of that security breach
15 notification, excluding any personally identifiable information, to
16 the Attorney General. A single sample copy of a security breach
17 notification shall not be deemed to be within Article 1
18 (commencing with Section 7923.600) of Chapter 1 of Part 5 of
19 Division 10 of Title 1 of the Government Code.

20 (f) For purposes of this section, "breach of the security of the
21 system" means unauthorized acquisition of computerized data that
22 compromises the security, confidentiality, or integrity of personal
23 information maintained by the agency. Good faith acquisition of
24 personal information by an employee or agent of the agency for
25 the purposes of the agency is not a breach of the security of the
26 system, provided that the personal information is not used or
27 subject to further unauthorized disclosure.

28 (g) For purposes of this section, "personal information" means
29 either of the following:

30 (1) An individual's first name or first initial and last name in
31 combination with any one or more of the following data elements,
32 when either the name or the data elements are not encrypted:

33 (A) Social security number.

34 (B) Driver's license number, California identification card
35 number, tax identification number, passport number, military
36 identification number, or other unique identification number issued
37 on a government document commonly used to verify the identity
38 of a specific individual.

39 (C) Account number or credit or debit card number, in
40 combination with any required security code, access code, or

1 password that would permit access to an individual's financial
2 account.

3 (D) Medical information.

4 (E) Health insurance information.

5 (F) Unique biometric data generated from measurements or
6 technical analysis of human body characteristics, such as a
7 fingerprint, retina, or iris image, used to authenticate a specific
8 individual. Unique biometric data does not include a physical or
9 digital photograph, unless used or stored for facial recognition
10 purposes.

11 (G) Information or data collected through the use or operation
12 of an automated license plate recognition system, as defined in
13 Section 1798.90.5.

14 (H) Genetic data.

15 (2) A username or email address, in combination with a
16 password or security question and answer that would permit access
17 to an online account.

18 (h) (1) For purposes of this section, "personal information"
19 does not include publicly available information that is lawfully
20 made available to the general public from federal, state, or local
21 government records.

22 (2) For purposes of this section, "medical information" means
23 any information regarding an individual's medical history, mental
24 or physical condition, or medical treatment or diagnosis by a health
25 care professional.

26 (3) For purposes of this section, "health insurance information"
27 means an individual's health insurance policy number or subscriber
28 identification number, any unique identifier used by a health insurer
29 to identify the individual, or any information in an individual's
30 application and claims history, including any appeals records.

31 (4) For purposes of this section, "encrypted" means rendered
32 unusable, unreadable, or indecipherable to an unauthorized person
33 through a security technology or methodology generally accepted
34 in the field of information security.

35 (5) For purposes of this section, "genetic data" means any data,
36 regardless of its format, that results from the analysis of a biological
37 sample of an individual, or from another source enabling equivalent
38 information to be obtained, and concerns genetic material. Genetic
39 material includes, but is not limited to, deoxyribonucleic acids
40 (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles,

1 genomes, alterations or modifications to DNA or RNA, single
2 nucleotide polymorphisms (SNPs), uninterpreted data that results
3 from analysis of the biological sample or other source, and any
4 information extrapolated, derived, or inferred therefrom.

5 (i) For purposes of this section, “notice” may be provided by
6 one of the following methods:

7 (1) Written notice.

8 (2) Electronic notice, if the notice provided is consistent with
9 the provisions regarding electronic records and signatures set forth
10 in Section 7001 of Title 15 of the United States Code.

11 (3) Substitute notice, if the agency demonstrates that the cost
12 of providing notice would exceed two hundred fifty thousand
13 dollars (\$250,000), or that the affected class of subject persons to
14 be notified exceeds 500,000, or the agency does not have sufficient
15 contact information. Substitute notice shall consist of all of the
16 following:

17 (A) Email notice when the agency has ~~an email address~~
18 *addresses* for the subject persons.

19 (B) Conspicuous posting, for a minimum of 30 days, of the
20 notice on the agency’s internet website, if the agency maintains
21 one. For purposes of this subparagraph, conspicuous posting on
22 the agency’s internet website means providing a link to the notice
23 on the home page or first significant page after entering the internet
24 website that is in larger type than the surrounding text, or in
25 contrasting type, font, or color to the surrounding text of the same
26 size, or set off from the surrounding text of the same size by
27 symbols or other marks that call attention to the link.

28 (C) Notification to major statewide media and the Office of
29 Information Security within the Department of Technology.

30 (4) In the case of a breach of the security of the system involving
31 personal information defined in paragraph (2) of subdivision (g)
32 for an online account, and no other personal information defined
33 in paragraph (1) of subdivision (g), the agency may comply with
34 this section by providing the security breach notification in
35 electronic or other form that directs the person whose personal
36 information has been breached to promptly change the person’s
37 password and security question or answer, as applicable, or to take
38 other steps appropriate to protect the online account with the
39 agency and all other online accounts for which the person uses the

1 same username or email address and password or security question
2 or answer.

3 (5) In the case of a breach of the security of the system involving
4 personal information defined in paragraph (2) of subdivision (g)
5 for login credentials of an email account furnished by the agency,
6 the agency shall not comply with this section by providing the
7 security breach notification to that email address, but may, instead,
8 comply with this section by providing notice by another method
9 described in this subdivision or by clear and conspicuous notice
10 delivered to the resident online when the resident is connected to
11 the online account from an Internet Protocol address or online
12 location from which the agency knows the resident customarily
13 accesses the account.

14 (j) Notwithstanding subdivision (i), an agency that maintains
15 its own notification procedures as part of an information security
16 policy for the treatment of personal information and is otherwise
17 consistent with the timing requirements of this part shall be deemed
18 to be in compliance with the notification requirements of this
19 section if it notifies subject persons in accordance with its policies
20 in the event of a breach of security of the system.

21 ~~(k) Notwithstanding the exception specified in paragraph (4) of~~
22 ~~subdivision (b) of Section 1798.3, for purposes of this section,~~
23 ~~“agency” includes a local agency, as defined in Section 7920.510~~
24 ~~of the Government Code.~~

25 ~~(l)~~

26 (k) For purposes of this section, “encryption key” and “security
27 credential” mean the confidential key or process designed to render
28 the data usable, readable, and decipherable.

29 ~~(m)~~

30 (l) Notwithstanding any other law, the State Bar of California
31 shall comply with this section. This subdivision shall not be
32 construed to apply other provisions of this chapter to the State Bar.

33 SEC. 12. Section 1798.44 of the Civil Code is amended to
34 read:

35 1798.44. This article applies to the rights of an individual to
36 whom personal information pertains and not to the authority or
37 right of any other person, agency, ~~other state governmental entity,~~
38 ~~agency of another state, or governmental entity branch of the~~
39 *federal government* to obtain this information.

1 SEC. 13. Section 1798.55 of the Civil Code is amended to
2 read:

3 1798.55. The intentional *or negligent* violation of any provision
4 of this chapter or of any rules or regulations adopted thereunder,
5 by an officer or employee of any agency shall constitute a cause
6 for discipline, including termination of employment.

7 SEC. 14. Section 1798.57 of the Civil Code is amended to
8 read:

9 1798.57. Except for disclosures which are otherwise required
10 or permitted by law, the intentional disclosure of medical,
11 psychiatric, or psychological information in violation of the
12 disclosure provisions of this chapter is punishable as a
13 ~~misdemeanor if the wrongful disclosure results in economic loss~~
14 ~~or personal injury to the individual to whom the information~~
15 ~~pertains.~~ *misdemeanor.*

16 SEC. 15. Section 1798.68 of the Civil Code is amended to
17 read:

18 1798.68. (a) Information which is permitted to be disclosed
19 under the provisions of subdivision ~~(e), (f), (e) or (e), (f)~~ of Section
20 1798.24 shall be provided when requested by a district attorney.

21 A district attorney may petition a court of competent jurisdiction
22 to require disclosure of information when an agency fails or refuses
23 to provide the requested information within 10 working days of a
24 request. The court may require the agency to permit inspection
25 unless the public interest or good cause in withholding such records
26 clearly outweighs the public interest in disclosure.

27 (b) Disclosure of information to a district attorney under the
28 provisions of this chapter shall effect no change in the status of
29 the records under any other provision of law.

30 SEC. 16. The Legislature finds and declares that Sections 1
31 and 6 of this act, which amend Sections 1798.3 and 1798.24 of
32 the Civil Code, imposes a limitation on the public's right of access
33 to the meetings of public bodies or the writings of public officials
34 and agencies within the meaning of Section 3 of Article I of the
35 California Constitution. Pursuant to that constitutional provision,
36 the Legislature makes the following findings to demonstrate the
37 interest protected by this limitation and the need for protecting
38 that interest:

39 By modernizing provisions of the Information Practices Act of
40 1977 to address the effects of advances in information technology

1 on the scope and sensitivity of personal information collected,
2 maintained, and disseminated by state agencies, this act balances
3 the right to access information concerning the conduct of the
4 people's business with the individual right to privacy.

5 SEC. 17. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution for certain
7 costs that may be incurred by a local agency or school district
8 because, in that regard, this act creates a new crime or infraction,
9 eliminates a crime or infraction, or changes the penalty for a crime
10 or infraction, within the meaning of Section 17556 of the
11 Government Code, or changes the definition of a crime within the
12 meaning of Section 6 of Article XIII B of the California
13 Constitution.

14 However, if the Commission on State Mandates determines that
15 this act contains other costs mandated by the state, reimbursement
16 to local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.