

AMENDED IN ASSEMBLY APRIL 8, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

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 amended, 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~~. *agencies, and would revise and expand the definition of “personal information.”* 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) (1) The term “personal information” means any information
5 that ~~is maintained by an agency that identifies or describes an~~
6 ~~individual, identifies, relates to, describes, or is capable of being~~
7 ~~associated with, a particular individual, including, but not limited~~
8 ~~to, the individual’s name, social security number, physical~~
9 ~~description, home address, home telephone number, education,~~
10 ~~financial matters, and medical or employment history. It includes~~
11 ~~statements made by, or attributed to, the individual. all of the~~
12 ~~following:~~

13 (A) Name, alias, postal address, unique personal identifier,
14 online identifier, IP address, email address, account name, social
15 security number, driver’s license number, passport number, or
16 other identifier.

17 (B) Vehicle registration information, including license plate
18 numbers.

19 (C) The contents of an individual’s mail, email, and text
20 messages unless the agency is the intended recipient of the
21 communication.

22 (D) Characteristics of protected classifications.

23 (E) Racial or ethnic origin, citizenship or immigration status,
24 religious beliefs, political positions or affiliations, or union
25 membership.

26 (F) Biometric information.

27 (G) Genetic data.

28 (H) Precise geolocation data.

1 (I) Audio, electronic, visual, thermal, olfactory, or similar
2 information.

3 (J) Insurance policy numbers.

4 (K) Neural data.

5 (L) Information concerning an individual's health.

6 (M) Information concerning an individual's gender, sex life, or
7 sexual orientation.

8 (2) "Personal information" may exist in various formats,
9 including, but not limited to, all of the following:

10 (A) Physical formats, including paper documents, printed
11 images, vinyl records, or video tapes.

12 (B) Digital formats, including text, image, audio, or video files.

13 (C) Abstract digital formats, including compressed or encrypted
14 files, metadata, or artificial intelligence systems that are capable
15 of outputting personal information.

16 (b) The term "agency" means every state and local office,
17 officer, department, division, bureau, board, commission, or other
18 state agency, except that the term agency shall not include:

19 (1) The California Legislature.

20 (2) Any agency established under Article VI of the California
21 Constitution.

22 (3) The State Compensation Insurance Fund, except as to any
23 records that contain personal information about the employees of
24 the State Compensation Insurance Fund.

25 (c) The term "disclose" means to disclose, release, transfer,
26 disseminate, or otherwise communicate all or any part of any record
27 orally, in writing, or by electronic or any other means to any person
28 or entity.

29 (d) The term "individual" means a natural person.

30 (e) The term "maintain" includes maintain, acquire, use, or
31 disclose.

32 (f) The term "person" means any natural person, corporation,
33 partnership, limited liability company, firm, or association.

34 (g) The term "record" means any file or grouping of personal
35 information that is maintained by an agency.

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

39 (i) The term "regulatory agency" means the Department of
40 Financial Protection and Innovation, the Department of Insurance,

1 the Bureau of Real Estate, and agencies of the United States or of
2 any other state responsible for regulating financial institutions.

3 (j) *The term “precise geolocation data” means any data that*
4 *is derived from a device and that is used or intended to be used to*
5 *locate an individual within a geographic area that is equal to or*
6 *less than the area of a circle with a radius of 1,850 feet.*

7 (k) *The term “neural data” means information that is generated*
8 *by measuring the activity of an individual’s central or peripheral*
9 *nervous system, and that is not inferred from nonneural*
10 *information.*

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

12 1798.16. (a) Whenever an agency collects personal
13 information, the agency shall maintain the source or sources of
14 the information, unless the source is the data subject or has received
15 a copy of the source document, including, but not limited to, the
16 name of any source who is an individual acting in their own private
17 or individual capacity. If the source is an agency, branch of the
18 federal government, or other organization, such as a corporation
19 or association, this requirement can be met by maintaining the
20 name of the agency, branch of the federal government, or
21 organization, as long as the smallest reasonably identifiable unit
22 of that agency, branch of the federal government, or organization
23 is named.

24 (b) On or after July 1, 2001, unless otherwise authorized by the
25 Department of Information Technology pursuant to Executive
26 Order D-3-99, whenever an agency electronically collects personal
27 information, as defined by Section 11015.5 of the Government
28 Code, the agency shall retain the source or sources or any
29 intermediate form of the information, if either are created or
30 possessed by the agency, unless the source is the data subject that
31 has requested that the information be discarded or the data subject
32 has received a copy of the source document.

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

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

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

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

(b) The title, business address, and telephone number of the agency official who is responsible for the records and who shall, upon request, inform an individual regarding the location of the individual's records and the categories of any persons who use the information in those records.

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

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

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

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

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

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

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

The notice required by this section does not apply to agency requirements for an individual to provide the individual's name, identifying number, photograph, address, or similar identifying information, if this information is used only for the purpose of

1 identification and communication with the individual by the
2 agency, except that requirements for an individual's social security
3 number shall conform with the provisions of the Federal Privacy
4 Act of 1974 (Public Law 93-579).

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

6 1798.19. Each agency when it provides by contract for the
7 operation or maintenance of records containing personal
8 information to accomplish an agency function, shall cause,
9 consistent with its authority, the requirements of this chapter to be
10 applied to those records. For purposes of Article 10 (commencing
11 with Section 1798.55), any contractor and any employee of the
12 contractor, if the contract is agreed to on or after July 1, 1978, shall
13 be considered to be an employee of an agency.

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

15 1798.20. (a) Consistent with applicable provisions of the State
16 Administrative Manual and the State Information Management
17 Manual, each agency shall establish rules of conduct for persons
18 involved in the design, development, operation, disclosure, or
19 maintenance of records containing personal information and
20 instruct each such person with respect to such rules and the
21 requirements of this chapter, including any other rules and
22 procedures adopted pursuant to this chapter and the remedies and
23 penalties for noncompliance.

24 (b) An agency shall not use records containing personal
25 information for any purpose or purposes other than the purpose or
26 purposes for which that personal information was collected, except
27 as required by federal law, or as authorized or required by state
28 law.

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

30 1798.24. An agency shall not disclose any personal information
31 in a manner that could link the information disclosed to the
32 individual to whom it pertains unless the information is disclosed,
33 as follows:

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

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

39 (c) To the duly appointed guardian or conservator of the
40 individual or a person representing the individual if it can be proven

1 with reasonable certainty through the possession of agency forms,
2 documents, or correspondence that this person is the authorized
3 representative of the individual to whom the information pertains.

4 (d) To those officers, employees, attorneys, agents, or volunteers
5 of the agency that have custody of the information if the disclosure
6 is relevant and necessary in the ordinary course of the performance
7 of their official duties and furthers the purpose for which the
8 information was acquired.

9 (e) To a person, or to another agency if the transfer is necessary
10 for the transferee agency to perform its constitutional or statutory
11 duties, and the use furthers the purpose for which the information
12 was collected and the use or transfer is in accordance with Section
13 1798.25. With respect to information transferred from a law
14 enforcement or regulatory agency, or information transferred to
15 another law enforcement or regulatory agency, a use is compatible
16 if the use of the information requested is needed in an investigation
17 of unlawful activity under the jurisdiction of the requesting agency
18 or for licensing, certification, or regulatory purposes by that agency.

19 (f) To a branch of the federal government if required by state
20 or federal law.

21 (g) Pursuant to the California Public Records Act (Division 10
22 commencing with Section 7920.000) of Title 1 of the Government
23 Code).

24 (h) To a person who has provided the agency with advance,
25 adequate written assurance that the information will be used solely
26 for statistical research or reporting purposes, but only if the
27 information to be disclosed is in a form that cannot identify any
28 individual, and the written assurance includes a statement that the
29 person will not attempt to reidentify the information.

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

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

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

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

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

11 (n) To another person or governmental organization to the extent
12 necessary to obtain information from the person or governmental
13 organization for an investigation by the agency of a failure to
14 comply with a specific state law that the agency is responsible for
15 enforcing.

16 (o) To an adopted person and disclosure is limited to general
17 background information pertaining to the adopted person's
18 biological parents, if the information does not include or reveal
19 the identity of the biological parents.

20 (p) To a child or a grandchild of an adopted person and
21 disclosure is limited to medically necessary information pertaining
22 to the adopted person's biological parents. However, the
23 information, or the process for obtaining the information, shall not
24 include or reveal the identity of the biological parents. The State
25 Department of Social Services shall adopt regulations governing
26 the release of information pursuant to this subdivision. The
27 regulations shall require licensed adoption agencies to provide the
28 same services provided by the department as established by this
29 subdivision.

30 (q) To a committee of the Legislature or to a Member of the
31 Legislature, or the ~~Member's~~ *Member* of the Legislature's staff if
32 authorized in writing by the ~~Member~~, *Member* of the Legislature
33 if the Member of the Legislature has permission to obtain the
34 information from the individual to whom it pertains or if the
35 Member of the Legislature provides reasonable assurance that the
36 Member of the Legislature is acting on behalf of the individual.

37 (r) (1) To the University of California, a nonprofit educational
38 institution, an established nonprofit research institution performing
39 health or social services research, the Cradle-to-Career Data
40 System, for purposes consistent with the creation and execution

1 of the Cradle-to-Career Data System Act pursuant to Article 2
2 (commencing with Section 10860) of Chapter 8.5 of Part 7 of
3 Division 1 of Title 1 of the Education Code, or, in the case of
4 education-related data, another nonprofit entity, conducting
5 scientific research, if the request for information is approved by
6 the Committee for the Protection of Human Subjects (CPHS) for
7 the California Health and Human Services Agency (CHHSA) or
8 an institutional review board, as authorized in paragraphs (5) and
9 (6). The approval shall include a review and determination that all
10 the following criteria have been satisfied:

11 (A) The researcher has provided a plan sufficient to protect
12 personal information from improper use and disclosures, including
13 sufficient administrative, physical, and technical safeguards to
14 protect personal information from reasonably anticipated threats
15 to the security or confidentiality of the information.

16 (B) The researcher has provided a sufficient plan to destroy or
17 return all personal information as soon as it is no longer needed
18 for the research project, unless the researcher has demonstrated
19 an ongoing need for the personal information for the research
20 project and has provided a long-term plan sufficient to protect the
21 confidentiality of that information.

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

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

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

36 (A) Determine whether the requested personal information is
37 needed to conduct the research.

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

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

3 (D) Require the assignment of unique subject codes that are not
4 derived from personal information in lieu of social security
5 numbers if the research can still be conducted without social
6 security numbers.

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

10 (4) Reasonable costs to the agency associated with the agency's
11 process of protecting personal information under the conditions
12 of CPHS approval may be billed to the researcher, including, but
13 not limited to, the agency's costs for conducting a portion of the
14 data processing for the researcher, removing personal information,
15 encrypting or otherwise securing personal information, or assigning
16 subject codes.

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

21 (6) Pursuant to paragraph (5), the CPHS shall enter into a written
22 agreement with the institutional review board established pursuant
23 to former Section 49079.6 of the Education Code. The agreement
24 shall authorize, commencing July 1, 2010, or the date upon which
25 the written agreement is executed, whichever is later, that board
26 to provide the data security approvals required by this subdivision,
27 if the data security requirements set forth in this subdivision and
28 the act specified in subdivision (a) of Section 49079.5 of the
29 Education Code are satisfied.

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

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

34 (u) For the sole purpose of participation in interstate data sharing
35 of prescription drug monitoring program information pursuant to
36 the California Uniform Controlled Substances Act (Division 10
37 (commencing with Section 11000) of the Health and Safety Code),
38 if disclosure is limited to prescription drug monitoring program
39 information.

1 This article does not require the disclosure of personal
2 information to the individual to whom the information pertains if
3 that information may otherwise be withheld as set forth in Section
4 1798.40.

5 SEC. 7. Section 1798.24b of the Civil Code is amended to
6 read:

7 1798.24b. (a) Notwithstanding Section 1798.24, except
8 subdivision (t) thereof, information shall be disclosed to the
9 protection and advocacy agency designated by the Governor in
10 this state pursuant to federal law to protect and advocate for the
11 rights of people with disabilities, as described in Division 4.7
12 (commencing with Section 4900) of the Welfare and Institutions
13 Code.

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

16 (1) Name.

17 (2) Address.

18 (3) Telephone number.

19 (4) Any other information necessary to identify that person
20 whose consent is necessary for either of the following purposes:

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

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

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

27 1798.25. (a) Each agency shall keep an accurate accounting
28 of the date, nature, and purpose of each disclosure of a record made
29 pursuant to subdivision (i), (k), or (n) of Section 1798.24. This
30 accounting shall also be required for disclosures made pursuant
31 to subdivision (e) or (f) of Section 1798.24 unless notice of the
32 type of disclosure has been provided pursuant to Sections 1798.9
33 and 1798.10. The accounting shall also include the name, title, and
34 business address of the person or agency to whom the disclosure
35 was made.

36 (b) Routine disclosures of information pertaining to crimes,
37 offenders, and suspected offenders to law enforcement or regulatory
38 agencies of federal, state, and local government shall be deemed
39 to be disclosures pursuant to subdivision (e) of Section 1798.24
40 for the purpose of meeting this requirement.

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

2 1798.26. With respect to the sale of information concerning
3 the registration of any vehicle or the sale of information from the
4 files of drivers' licenses, the Department of Motor Vehicles shall,
5 by regulation, establish administrative procedures under which
6 any person making a request for information shall be required to
7 identify themselves and state the reason for making the request.
8 These procedures shall provide for the verification of the name
9 and address of the person making a request for the information
10 and the department may require the person to produce the
11 information as it determines is necessary in order to ensure that
12 the name and address of the person are their true name and address.
13 These procedures may provide for a 10-day delay in the release
14 of the requested information. These procedures shall also provide
15 for notification to the person to whom the information relates, as
16 to what information was provided and to whom it was provided.
17 The department shall, by regulation, establish a reasonable period
18 of time for which a record of all the foregoing shall be maintained.

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

23 SEC. 10. Section 1798.27 of the Civil Code is amended to
24 read:

25 1798.27. Each agency shall retain the accounting made pursuant
26 to Section 1798.25 for at least three years after the disclosure for
27 which the accounting is made.

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

31 SEC. 11. Section 1798.29 of the Civil Code is amended to
32 read:

33 1798.29. (a) Any agency that owns or licenses computerized
34 data that includes personal information shall disclose any breach
35 of the security of the system following discovery or notification
36 of the breach in the security of the data to any resident of California
37 (1) whose unencrypted personal information was, or is reasonably
38 believed to have been, acquired by an unauthorized person, or, (2)
39 whose encrypted personal information was, or is reasonably
40 believed to have been, acquired by an unauthorized person and

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

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

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

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

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

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

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

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

38 (D) For a written notice described in paragraph (1) of
39 subdivision (i), use of the model security breach notification form
40 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.		
Other Important Information. [insert other important information]		

For More Information.	Call [telephone number] or go to [internet website]

(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.

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

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

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

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

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

14 (f) For purposes of this section, “breach of the security of the
15 system” means unauthorized acquisition of computerized data that
16 compromises the security, confidentiality, or integrity of personal
17 information maintained by the agency. Good faith acquisition of
18 personal information by an employee or agent of the agency for
19 the purposes of the agency is not a breach of the security of the
20 system, provided that the personal information is not used or
21 subject to further unauthorized disclosure.

22 (g) For purposes of this section, “personal information” means
23 either of the following:

24 (1) An individual’s first name or first initial and last name in
25 combination with any one or more of the following data elements,
26 when either the name or the data elements are not encrypted:

27 (A) Social security number.

28 (B) Driver’s license number, California identification card
29 number, tax identification number, passport number, military
30 identification number, or other unique identification number issued
31 on a government document commonly used to verify the identity
32 of a specific individual.

33 (C) Account number or credit or debit card number, in
34 combination with any required security code, access code, or
35 password that would permit access to an individual’s financial
36 account.

37 (D) Medical information.

38 (E) Health insurance information.

39 (F) Unique biometric data generated from measurements or
40 technical analysis of human body characteristics, such as a

1 fingerprint, retina, or iris image, used to authenticate a specific
2 individual. Unique biometric data does not include a physical or
3 digital photograph, unless used or stored for facial recognition
4 purposes.

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

8 (H) Genetic data.

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

12 (h) (1) For purposes of this section, “personal information”
13 does not include publicly available information that is lawfully
14 made available to the general public from federal, state, or local
15 government records.

16 (2) For purposes of this section, “medical information” means
17 any information regarding an individual’s medical history, mental
18 or physical condition, or medical treatment or diagnosis by a health
19 care professional.

20 (3) For purposes of this section, “health insurance information”
21 means an individual’s health insurance policy number or subscriber
22 identification number, any unique identifier used by a health insurer
23 to identify the individual, or any information in an individual’s
24 application and claims history, including any appeals records.

25 (4) For purposes of this section, “encrypted” means rendered
26 unusable, unreadable, or indecipherable to an unauthorized person
27 through a security technology or methodology generally accepted
28 in the field of information security.

29 (5) For purposes of this section, “genetic data” means any data,
30 regardless of its format, that results from the analysis of a biological
31 sample of an individual, or from another source enabling equivalent
32 information to be obtained, and concerns genetic material. Genetic
33 material includes, but is not limited to, deoxyribonucleic acids
34 (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles,
35 genomes, alterations or modifications to DNA or RNA, single
36 nucleotide polymorphisms (SNPs), uninterpreted data that results
37 from analysis of the biological sample or other source, and any
38 information extrapolated, derived, or inferred therefrom.

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

1 (1) Written notice.

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

5 (3) Substitute notice, if the agency demonstrates that the cost
6 of providing notice would exceed two hundred fifty thousand
7 dollars (\$250,000), or that the affected class of subject persons to
8 be notified exceeds 500,000, or the agency does not have sufficient
9 contact information. Substitute notice shall consist of all of the
10 following:

11 (A) Email notice when the agency has email addresses for the
12 subject persons.

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

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

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

36 (5) In the case of a breach of the security of the system involving
37 personal information defined in paragraph (2) of subdivision (g)
38 for login credentials of an email account furnished by the agency,
39 the agency shall not comply with this section by providing the
40 security breach notification to that email address, but may, instead,

1 comply with this section by providing notice by another method
2 described in this subdivision or by clear and conspicuous notice
3 delivered to the resident online when the resident is connected to
4 the online account from an Internet Protocol address or online
5 location from which the agency knows the resident customarily
6 accesses the account.

7 (j) Notwithstanding subdivision (i), an agency that maintains
8 its own notification procedures as part of an information security
9 policy for the treatment of personal information and is otherwise
10 consistent with the timing requirements of this part shall be deemed
11 to be in compliance with the notification requirements of this
12 section if it notifies subject persons in accordance with its policies
13 in the event of a breach of security of the system.

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

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

20 SEC. 12. Section 1798.44 of the Civil Code is amended to
21 read:

22 1798.44. This article applies to the rights of an individual to
23 whom personal information pertains and not to the authority or
24 right of any other person, agency, agency of another state, or branch
25 of the federal government to obtain this information.

26 SEC. 13. Section 1798.55 of the Civil Code is amended to
27 read:

28 1798.55. The intentional or negligent violation of any provision
29 of this chapter or of any rules or regulations adopted thereunder,
30 by an officer or employee of any agency shall constitute a cause
31 for discipline, including termination of employment.

32 SEC. 14. Section 1798.57 of the Civil Code is amended to
33 read:

34 1798.57. Except for disclosures which are otherwise required
35 or permitted by law, the intentional disclosure of medical,
36 psychiatric, or psychological information in violation of the
37 disclosure provisions of this chapter is punishable as a
38 misdemeanor.

39 SEC. 15. Section 1798.68 of the Civil Code is amended to
40 read:

1 1798.68. (a) Information which is permitted to be disclosed
2 under the provisions of subdivision (e) or (f) of Section 1798.24
3 shall be provided when requested by a district attorney.

4 A district attorney may petition a court of competent jurisdiction
5 to require disclosure of information when an agency fails or refuses
6 to provide the requested information within 10 working days of a
7 request. The court may require the agency to permit inspection
8 unless the public interest or good cause in withholding such records
9 clearly outweighs the public interest in disclosure.

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

13 SEC. 16. The Legislature finds and declares that Sections 1
14 and 6 of this act, which amend Sections 1798.3 and 1798.24 of
15 the Civil Code, imposes a limitation on the public's right of access
16 to the meetings of public bodies or the writings of public officials
17 and agencies within the meaning of Section 3 of Article I of the
18 California Constitution. Pursuant to that constitutional provision,
19 the Legislature makes the following findings to demonstrate the
20 interest protected by this limitation and the need for protecting
21 that interest:

22 By modernizing provisions of the Information Practices Act of
23 1977 to address the effects of advances in information technology
24 on the scope and sensitivity of personal information collected,
25 maintained, and disseminated by state agencies, this act balances
26 the right to access information concerning the conduct of the
27 people's business with the individual right to privacy.

28 SEC. 17. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution for certain
30 costs that may be incurred by a local agency or school district
31 because, in that regard, this act creates a new crime or infraction,
32 eliminates a crime or infraction, or changes the penalty for a crime
33 or infraction, within the meaning of Section 17556 of the
34 Government Code, or changes the definition of a crime within the
35 meaning of Section 6 of Article XIII B of the California
36 Constitution.

37 However, if the Commission on State Mandates determines that
38 this act contains other costs mandated by the state, reimbursement
39 to local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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