

**13.055 STATE AGENCIES; DISCLOSURE OF BREACH IN SECURITY.**

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given to them.

(a) "Breach of the security of the data" means unauthorized acquisition of data maintained by a state agency that compromises the security and classification of the data. Good faith acquisition of government data by an employee, contractor, or agent of a state agency for the purposes of the state agency is not a breach of the security of the data, if the government data is not provided to an unauthorized person.

(b) "Contact information" means either name and mailing address or name and e-mail address for each individual who is the subject of data maintained by the state agency.

(c) "Unauthorized acquisition" means that a person has obtained government data without the informed consent of the individuals who are the subjects of the data or statutory authority and with the intent to use the data for nongovernmental purposes.

(d) "Unauthorized person" means any person who accesses government data without permission or without a work assignment that reasonably requires the person to have access to the data.

Subd. 2. **Notice to individuals.** A state agency that collects, creates, receives, maintains, or disseminates private or confidential data on individuals must disclose any breach of the security of the data following discovery or notification of the breach. Notification must be made to any individual who is the subject of the data and whose private or confidential data was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with (1) the legitimate needs of a law enforcement agency as provided in subdivision 3; or (2) any measures necessary to determine the scope of the breach and restore the reasonable security of the data.

Subd. 3. **Delayed notice.** The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede an active criminal investigation. The notification required by this section must be made after the law enforcement agency determines that it will not compromise the investigation.

Subd. 4. **Method of notice.** Notice under this section may be provided by one of the following methods:

(a) written notice by first class mail to each affected individual;

(b) electronic notice to each affected individual, if the notice provided is consistent with the provisions regarding electronic records and signatures as set forth in United States Code, title 15, section 7001; or

(c) substitute notice, if the state agency demonstrates that the cost of providing the written notice required by paragraph (a) would exceed \$250,000, or that the affected class of individuals to be notified exceeds 500,000, or the state agency does not have sufficient contact information. Substitute notice consists of all of the following:

- (i) e-mail notice if the state agency has an e-mail address for the affected individuals;
- (ii) conspicuous posting of the notice on the Web site page of the state agency, if the state agency maintains a Web site; and
- (iii) notification to major media outlets that reach the general public.

**Subd. 5. Coordination with consumer reporting agencies.** If the state agency discovers circumstances requiring notification under this section of more than 1,000 individuals at one time, the state agency must also notify, without unreasonable delay, all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in United States Code, title 15, section 1681a, of the timing, distribution, and content of the notices.

**Subd. 6. Security assessments.** Each government entity shall conduct a comprehensive security assessment of any personal information maintained by the government entity. For the purposes of this subdivision, personal information is defined under section 325E.61, subdivision 1, paragraphs (e) and (f).

**History:** 2005 c 163 s 21; 2005 c 167 s 1; 2006 c 212 art 1 s 17,24; 2006 c 233 s 7,8