

Regular Session, 2014

SENATE BILL NO. 506

BY SENATOR CROWE

IDENTITY DATA. Provides for securing personally identifiable information to prevent identity theft. (8/1/14)

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AN ACT

To amend and reenact R.S. 9:3568(D) and to enact R.S. 9:3568(E), relative to identity theft; to prevent identity theft by securing personally identifiable information; to provide for the security of personally identifiable information collected by the state and its political subdivisions; to prohibit the sharing of personally identifiable information; to provide for exceptions; to provide for the destruction of unlawfully obtained personally identifiable information; and provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:3568(D) is hereby amended and reenacted and R.S. 9:3568(E) is hereby enacted to read as follows:

§3568. Identity theft; creditors; security alerts; distribution of personally identifiable information by government

* * *

D.(1)(a) In order to protect the public from identity theft, any personally identifiable information submitted to or obtained by any department, office, agency, or other instrumentality of the executive branch, or any official or employee thereof, or any political subdivision, or any official or employee

1 **thereof, shall be made secure.**

2 **(b) Any personally identifiable information submitted to or obtained by**
3 **any employee, officer, department, office, agency, or other instrumentality of**
4 **the executive branch or any political subdivision shall not be shared with any**
5 **other department, office, agency, or other instrumentality of the executive**
6 **branch, any other political subdivision, the federal government, any other state**
7 **government or group of state governments, or any other person without the**
8 **express written permission of the person whose information was submitted or**
9 **obtained, or without an order of a court of competent jurisdiction directing such**
10 **sharing.**

11 **(2) As used in this Subsection:**

12 **(a) "Executive branch" means executive branch as provided for in**
13 **Article IV of the Constitution of Louisiana.**

14 **(b) "Law enforcement personnel" means any full-time or part-time**
15 **personnel employed by a bona fide police agency of the state or a political**
16 **subdivision.**

17 **(c) "Personally identifiable information" means information that can be**
18 **used to distinguish a person's identity either alone or when combined with other**
19 **personal or identifying information that is linked or linkable to a specific**
20 **person.**

21 **(d) "Political subdivision" means any political subdivision as provided**
22 **for in Article VI of the Constitution of Louisiana and as defined in Article VI,**
23 **Section 44 of the Constitution of Louisiana.**

24 **(3)(a) The provisions of this Subsection shall not prohibit the sharing of**
25 **personally identifiable information between law enforcement personnel for a**
26 **legitimate law enforcement purpose.**

27 **(b) The provisions of this Subsection shall not prohibit the sharing of**
28 **personally identifiable information between law enforcement personnel when**
29 **the information is related to a person convicted of a felony conviction or a**

1 misdemeanor conviction or regarding any outstanding warrant or order of a
2 court of competent jurisdiction.

3 (c) The provisions of this Section shall not prohibit the sharing of
4 personally identifiable information by any law enforcement personnel with the
5 Board of Pardon or the committee on parole.

6 (d) The provisions of this Section shall not apply to any personally
7 identifiable information regarding a public employee or official where such
8 information is a public record by law or by final judgment of a court of
9 competent jurisdiction.

10 (4) Notwithstanding anything to the contrary, should any personally
11 identifiable information be obtained in violation of Article I, Section 5 of the
12 Constitution of Louisiana, by any person, any employee or official of any
13 department, office, agency, or other instrumentality of the executive branch, by
14 any employee or official of any political subdivision, by any court or agency of
15 the judicial branch as provided for in Article V of the Constitution of Louisiana,
16 or by the legislature or any agency of the legislative branch as provided for in
17 Article III of the Constitution of Louisiana, the information shall be destroyed
18 voluntarily by the recipient or pursuant to an order of a court of competent
19 jurisdiction.

20 ~~DE.~~ Damages. Effective January 1, 2004, each creditor, potential creditor,
21 credit reporting agency, or other entity, **including those entities provided for in**
22 **Subsection D of this Section,** which violates the provisions of this Part shall be
23 liable to the victim of an identity theft for all of the documented out-of-pocket
24 expenses caused by such creditor, potential creditor, credit reporting agency, or other
25 entity and suffered by the victim as a result of the identity theft, plus reasonable
26 attorney fees.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

DIGEST

Crowe (SB 506)

Present law provides relative to identity theft.

Proposed law provides that in order to protect the public from identity theft, personally identifiable information submitted to or obtained by any state executive branch department, office, agency, or other entity, or any official or employee thereof, or submitted to or obtained by any political subdivision, or any official or employee thereof, shall be made secure.

Proposed law provides that any personally identifiable information submitted to or obtained by any employee, officer, department, office, agency, or other instrumentality of the executive branch or to any political subdivision shall not be shared with any other department, office, agency, or other instrumentality of the executive branch, or with any political subdivision, or with the federal government, or with any other state government, or with any group of state governments, or with any other person without the express written permission of the person whose information was obtained or without an order of a court of competent jurisdiction directing such sharing.

Proposed law provides definitions as follows: (1) "Executive branch" means executive branch as provided for in Article IV of the La. Constitution. (2) "Law enforcement personnel" means any full-time or part-time personnel employed by a bona fide police agency of the state or political subdivision. (3) "Personally identifiable information" means information that can be used to distinguish a person's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific person. (4) "Political subdivision" means any political subdivision as provided for in Article VI of the La. Constitution and as defined in Article VI, Section 44.

Proposed law provides that the provisions of proposed law shall not prohibit the sharing of personally identifiable information between law enforcement personnel for a legitimate law enforcement purpose.

Proposed law provides that the provisions of proposed law shall not prohibit the sharing of personally identifiable information between law enforcement personnel when related to a felony or misdemeanor conviction or to an outstanding warrant or order of a court of competent jurisdiction directing such sharing.

Proposed law provides that the provisions of proposed law shall not prohibit the sharing of personally identifiable information by any law enforcement personnel with the Board of Pardon or the committee on parole.

Present law provides for the right to privacy and that every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy. Present law provides that no warrant shall issue without probable cause supported by oath or affirmation, and particularly describing the place to be searched, the persons or things to be seized, and the lawful purpose or reason for the search.

Proposed law retains present law but also provides that should any personally identifiable information be obtained in violation of present law by any person, employee or official of the executive branch, the judicial branch, the legislature, or by any political subdivision, the illegally obtained personally identifiable information shall be destroyed voluntarily by the recipient or upon the order of a court of competent jurisdiction.

Present law provides that, effective January 1, 2004, each creditor, potential creditor, credit reporting agency, or other entity which violates the provisions of present law shall be liable to the victim of an identity theft for all of the documented out-of-pocket expenses caused by such creditor, potential creditor, credit reporting agency, or other entity and suffered by the victim as a result of the identity theft, plus reasonable attorney fees.

Proposed law retains present law but also provides that damages may also be awarded where a person is harmed by the distribution of the person's personally identifiable information.

Effective August 1, 2014.

(Amends R.S. 9:3568(D); adds R.S. 9:3568(E))