



Proposed law requires the notification to be consistent with the legitimate needs of law enforcement or any measures necessary to determine the scope of the breach, prevent further disclosures, and restore the reasonable integrity of the data system. Provides that if a law enforcement agency determines that the notification to the commissioner required under proposed law would impede a criminal investigation, the notification may be delayed until the law enforcement agency determines that the notification will no longer compromise such investigation.

Proposed law provides that notification is not required if the personal information or protected health information involved is encrypted or redacted. Provides, however, that the data shall not be considered to be encrypted if the encryption key has been acquired in the breach.

Proposed law provides that the commissioner may order specific corrective actions to be taken by the person required to provide notification including but not limited to notifications to affected residents, the provision of credit monitoring services to affected residents, or the reporting of the breach to consumer credit agencies.

Proposed law provides that the commissioner may review the data breach policies, procedures, actions, and safeguards of the person required to provide notification including but not limited to procedures to notify affected residents. The commissioner may order the institution of new policies and procedures where appropriate.

Proposed law provides that the commissioner may investigate and examine the records and operations of any person required to provide notification to determine if the person has implemented and complied with the issued orders.

Proposed law provides that any person who fails to provide timely notifications, file supplemental reports, or comply with orders issued by the commissioner shall be subject, at the discretion of the commissioner, to either or both of the following:

- (1) A fine not to exceed one thousand dollars for each violation, up to two million dollars in a calendar year, per person for all violations. Each day of noncompliance shall be deemed a separate violation.
- (2) Suspension or revocation of the person's certificate of authority or license.

Proposed law provides that a person regulated by the department and affected by the commissioner's decisions, acts, or orders may demand a hearing in accordance with present law.

Proposed law provides that the notifications to the commissioner and any required supplemental reports shall be exempt from disclosure pursuant to the Public Records Law and are hereby declared to be proprietary and confidential business records not subject to public examination or subpoena.

Effective on August 1, 2016.

(Amends R.S. 44:4.1(B)(11); adds R.S. 22:51)