

1-1 By: Capriglione, et al. (Senate Sponsor - Nelson) H.B. No. 4390
1-2 (In the Senate - Received from the House May 8, 2019;
1-3 May 10, 2019, read first time and referred to Committee on Business
1-4 & Commerce; May 20, 2019, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 May 20, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 4390 By: Nichols

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the privacy of personal identifying information and the
1-22 creation of the Texas Privacy Protection Advisory Council.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 521.053, Business & Commerce Code, is
1-25 amended by amending Subsection (b) and adding Subsection (i) to
1-26 read as follows:

1-27 (b) A person who conducts business in this state and owns or
1-28 licenses computerized data that includes sensitive personal
1-29 information shall disclose any breach of system security, after
1-30 discovering or receiving notification of the breach, to any
1-31 individual whose sensitive personal information was, or is
1-32 reasonably believed to have been, acquired by an unauthorized
1-33 person. The disclosure shall be made without unreasonable delay and
1-34 in each case not later than the 60th day after the date on which the
1-35 person determines that the breach occurred [as quickly as
1-36 possible], except as provided by Subsection (d) or as necessary to
1-37 determine the scope of the breach and restore the reasonable
1-38 integrity of the data system.

1-39 (i) A person who is required to disclose or provide
1-40 notification of a breach of system security under this section
1-41 shall notify the attorney general of that breach not later than the
1-42 60th day after the date on which the person determines that the
1-43 breach occurred if the breach involves at least 250 residents of
1-44 this state. The notification under this subsection must include:

1-45 (1) a detailed description of the nature and
1-46 circumstances of the breach or the use of sensitive personal
1-47 information acquired as a result of the breach;

1-48 (2) the number of residents of this state affected by
1-49 the breach at the time of notification;

1-50 (3) the measures taken by the person regarding the
1-51 breach;

1-52 (4) any measures the person intends to take regarding
1-53 the breach after the notification under this subsection; and

1-54 (5) information regarding whether law enforcement is
1-55 engaged in investigating the breach.

1-56 SECTION 2. (a) In this section, "council" means the Texas
1-57 Privacy Protection Advisory Council created under this section.

1-58 (b) The Texas Privacy Protection Advisory Council is
1-59 created to study data privacy laws in this state, other states, and
1-60 relevant foreign jurisdictions.

2-1 (c) The council is composed of members who are residents of
2-2 this state and appointed as follows:
2-3 (1) five members appointed by the speaker of the house
2-4 of representatives, two of whom must be representatives of an
2-5 industry listed under Subsection (d) of this section and three of
2-6 whom must be members of the house of representatives;
2-7 (2) five members appointed by the lieutenant governor,
2-8 two of whom must be representatives of an industry listed under
2-9 Subsection (d) of this section and three of whom must be senators;
2-10 and
2-11 (3) five members appointed by the governor, three of
2-12 whom must be representatives of an industry listed under Subsection
2-13 (d) of this section and two of whom must be either:
2-14 (A) a representative of a nonprofit organization
2-15 that studies or evaluates data privacy laws from the perspective of
2-16 individuals whose information is collected or processed by
2-17 businesses; or
2-18 (B) a professor who teaches at a law school in
2-19 this state or other institution of higher education, as defined by
2-20 Section 61.003, Education Code, and whose books or scholarly
2-21 articles on the topic of data privacy have been published.
2-22 (d) For purposes of making appointments of members who
2-23 represent industries under Subsection (c) of this section, the
2-24 speaker of the house of representatives, lieutenant governor, and
2-25 governor shall appoint members from among the following industries
2-26 and must coordinate their appointments to avoid overlap in
2-27 representation of the industries:
2-28 (1) medical profession;
2-29 (2) technology;
2-30 (3) Internet;
2-31 (4) retail and electronic transactions;
2-32 (5) consumer banking;
2-33 (6) telecommunications;
2-34 (7) consumer data analytics;
2-35 (8) advertising;
2-36 (9) Internet service providers;
2-37 (10) social media platforms;
2-38 (11) cloud data storage;
2-39 (12) virtual private networks; or
2-40 (13) retail electric.
2-41 (e) The speaker of the house of representatives and the
2-42 lieutenant governor shall each designate a co-chair from among
2-43 their respective appointments to the council who are members of the
2-44 legislature.
2-45 (f) The council shall convene on a regular basis at the
2-46 joint call of the co-chairs.
2-47 (g) The council shall:
2-48 (1) study and evaluate the laws in this state, other
2-49 states, and relevant foreign jurisdictions that govern the privacy
2-50 and protection of information that alone or in conjunction with
2-51 other information identifies or is linked or reasonably linkable to
2-52 a specific individual, technological device, or household; and
2-53 (2) make recommendations to the members of the
2-54 legislature on specific statutory changes regarding the privacy and
2-55 protection of that information, including changes to Chapter 521,
2-56 Business & Commerce Code, as amended by this Act, or to the Penal
2-57 Code, that appear necessary from the results of the council's study
2-58 under this section.
2-59 (h) Not later than September 1, 2020, the council shall
2-60 report the council's findings and recommendations to the members of
2-61 the legislature.
2-62 (i) The Department of Information Resources shall provide
2-63 administrative support to the council.
2-64 (j) Not later than the 60th day after the effective date of
2-65 this Act, the speaker of the house of representatives, the
2-66 lieutenant governor, and the governor shall appoint the members of
2-67 the council.
2-68 (k) The council is abolished and this section expires
2-69 December 31, 2020.

3-1 SECTION 3. (a) Except as provided by Subsection (b) of this
3-2 section, this Act takes effect September 1, 2019.

3-3 (b) Section [521.053](#), Business & Commerce Code, as amended by
3-4 this Act, takes effect January 1, 2020.

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