

January 27, 2021

The Dereck Davis  
Chair, House Economic Matters Committee  
House Office Building, Room 230  
6 Bladen Street  
Annapolis, MD 21401

**Re: MD SB 112 (favorable with amendments to 14-3504(c)(2) and 14-3504(d)(2))**

Dear Chair Davis:

I am writing on behalf of LexisNexis Risk Solutions (“LexisNexis”), a leading provider of credential verification and identification services for government agencies, Fortune 1000 businesses, and the property and casualty insurance industry, to express concerns with the proposed modifications to the Maryland Personal Information Protection Act (MPIPA) included under 14-3504(c)(2) and 14-3504(d)(2) of House Bill 148.

We appreciate Senator Lee’s efforts in the Senate and Delegate Carey’s efforts in the House to refine existing law and bring the law up to date to ensure robust consumer protections. We are very cognizant of the importance of data security from our work with public and private sector organizations in Maryland to detect and prevent identity theft and fraud.

House Bill 148 amends MPIPA under 14-3504(c)(2), to require that a business that maintains Maryland personal information that it does not own or license and that incurs a data breach, notify the owner or licensee of the personal information exposed within 10 days of discovering or being notified of the breach. While well-intentioned, this change would set a burdensome standard that would be challenging to meet in the context of complex security incidents.

Existing law is better aligned with the contractually established mechanisms for notice between businesses in the marketplace that maintain Maryland personal information and that may incur a breach to adequately determine the incident scope. We share the concerns other industry stakeholders have raised with this provision and want to underscore the critical importance of affording flexibility for businesses under this section of the law.

**LexisNexis requests House Bill 148 revert to existing law by striking the proposed changes under 14-3504(c)(2).**

Under MPIPA, the notification required under 14-3504(b) and 14-3504(c) may be delayed under 14-3504(d)(1)(i) if a law enforcement agency determines the notification will impede a criminal investigation or jeopardize homeland or national security. However, notification is required as soon as practicable and not later than 30 days after law enforcement determines it will not impede a criminal investigation.



House Bill 148 amends 14-3504(d)(2), to require that notification be given as soon as reasonably practicable, but not later than 7 days after law enforcement determines it will not impede a criminal investigation or jeopardize homeland or national security.

This is simply not feasible operationally for a business that is obligated to wait for law enforcement to conclude its own investigation and provide information necessary for the business to undertake an impact assessment of the security incident and work towards the other components of delivering consumer notice. Nearly every other state breach notification law permits delayed notification in the context of a law enforcement investigation and the vast majority of such laws do not establish any corresponding time frame for notification following the conclusion of a law enforcement investigation.

**LexisNexis requests House Bill 148 revert to existing law by striking the proposed changes under 14-3504(d)(2).**

We remain committed to working with Delegate Carey on House Bill 148 and with Senator Lee on the Senate companion measure as they continue to refine this legislation and engage key stakeholders. Thank you for your consideration of LexisNexis feedback on the proposed changes made by House Bill 148 to MPIPA under 14-3504(c)(2) and 14-3504(d)(2).

Please let us know if we can answer any questions or provide any additional information.

Respectfully submitted,

A handwritten signature in cursive script that reads "Julien Nagarajan".

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CC Senator Susan Lee

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