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By: **Delegates Menes, Barkley, and Petzold**  
Introduced and read first time: January 21, 2004  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Computerized Records that Contain Personal Information - Unauthorized**  
3                                   **Access - Notice**

4 FOR the purpose of requiring a person that owns, licenses, or maintains a certain  
5 computerized record for a commercial purpose to notify certain individuals of an  
6 unauthorized access to the computerized record under certain circumstances;  
7 requiring the custodian of a computerized public record to notify certain  
8 individuals of an unauthorized access to the computerized public record under  
9 certain circumstances; authorizing the delay of the required notifications to  
10 further a police investigation; authorizing the delay of the required notifications  
11 to restore the reasonable integrity of the computerized record or computerized  
12 public record; specifying the manner in which the required notifications may be  
13 given; providing that a person that owns, licenses, or maintains a certain  
14 computerized record for a commercial purpose and violates certain provisions of  
15 this Act is liable to certain individuals for attorney's fees and certain damages;  
16 defining certain terms; making a certain conforming change; and generally  
17 relating to notice of an unauthorized access to a computerized record or  
18 computerized public record that contains an individual's personal information.

19 BY adding to  
20 Article - Commercial Law  
21 Section 14-3201 through 14-3204, inclusive, to be under the new subtitle  
22 "Subtitle 32. Unauthorized Access to Computerized Records"  
23 Annotated Code of Maryland  
24 (2000 Replacement Volume and 2003 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article - State Government  
27 Section 10-611(f)  
28 Annotated Code of Maryland  
29 (1999 Replacement Volume and 2003 Supplement)

30 BY adding to  
31 Article - State Government

1 Section 10-629  
2 Annotated Code of Maryland  
3 (1999 Replacement Volume and 2003 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Commercial Law**

7 SUBTITLE 32. UNAUTHORIZED ACCESS TO COMPUTERIZED RECORDS.

8 14-3201.

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
10 INDICATED.

11 (B) "PERSON" INCLUDES AN INDIVIDUAL, CORPORATION, BUSINESS TRUST,  
12 ESTATE, TRUST, PARTNERSHIP, ASSOCIATION, TWO OR MORE PERSONS HAVING A  
13 JOINT OR COMMON INTEREST, OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

14 (C) "PERSONAL INFORMATION" MEANS:

15 (1) AN INDIVIDUAL'S FIRST NAME OR FIRST INITIAL AND LAST NAME;  
16 AND

17 (2) ONE OF THE FOLLOWING:

18 (I) THE INDIVIDUAL'S DRIVER'S LICENSE NUMBER OR OTHER  
19 IDENTIFICATION NUMBER;

20 (II) THE INDIVIDUAL'S BANK OR OTHER FINANCIAL INSTITUTION  
21 ACCOUNT NUMBER;

22 (III) THE INDIVIDUAL'S CREDIT OR DEBIT CARD NUMBER; OR

23 (IV) THE INDIVIDUAL'S SOCIAL SECURITY NUMBER.

24 14-3202.

25 (A) A PERSON THAT OWNS, LICENSES, OR MAINTAINS FOR A COMMERCIAL  
26 PURPOSE A COMPUTERIZED RECORD THAT CONTAINS AN INDIVIDUAL'S PERSONAL  
27 INFORMATION SHALL NOTIFY THE INDIVIDUAL OF AN UNAUTHORIZED ACCESS TO  
28 THE COMPUTERIZED RECORD IF, AS A RESULT OF THE UNAUTHORIZED ACCESS, THE  
29 INDIVIDUAL'S PERSONAL INFORMATION:

30 (1) HAS BEEN ACQUIRED BY AN UNAUTHORIZED INDIVIDUAL; OR

31 (2) IS REASONABLY BELIEVED TO HAVE BEEN ACQUIRED BY AN  
32 UNAUTHORIZED INDIVIDUAL.

1 (B) EXCEPT AS PROVIDED IN SUBSECTIONS (C) AND (D) OF THIS SECTION, THE  
2 NOTIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL BE  
3 GIVEN AS SOON AS PRACTICABLE AFTER THE UNAUTHORIZED ACCESS IS  
4 DISCOVERED.

5 (C) (1) THE NOTIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS  
6 SECTION MAY BE DELAYED IF A LAW ENFORCEMENT AGENCY DETERMINES THAT  
7 THE NOTIFICATION WILL IMPEDE A CRIMINAL INVESTIGATION.

8 (2) THE NOTIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS  
9 SECTION SHALL BE GIVEN AS SOON AS PRACTICABLE AFTER THE LAW  
10 ENFORCEMENT AGENCY DETERMINES THAT THE NOTIFICATION WILL NOT IMPEDE A  
11 CRIMINAL INVESTIGATION.

12 (D) THE NOTIFICATION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION  
13 MAY BE DELAYED IN ORDER TO TAKE MEASURES NECESSARY TO:

14 (1) DETERMINE THE SCOPE OF THE UNAUTHORIZED ACCESS TO THE  
15 COMPUTERIZED RECORD; OR

16 (2) RESTORE THE REASONABLE INTEGRITY OF THE COMPUTERIZED  
17 RECORD.

18 14-3203.

19 (A) A PERSON THAT MAINTAINS NOTIFICATION PROCEDURES AS A PART OF A  
20 SECURITY POLICY FOR PERSONAL INFORMATION CONTAINED IN A COMPUTERIZED  
21 RECORD SHALL BE DEEMED TO COMPLY WITH THE NOTIFICATION REQUIREMENT  
22 UNDER § 14-3202 OF THIS SUBTITLE IF THE PERSON NOTIFIES INDIVIDUALS  
23 ENTITLED TO NOTIFICATION UNDER § 14-3202 OF THIS SUBTITLE AS SOON AS  
24 PRACTICABLE AFTER THE UNAUTHORIZED ACCESS IS DISCOVERED.

25 (B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A PERSON MAY  
26 COMPLY WITH THE NOTIFICATION REQUIREMENT UNDER § 14-3202 OF THIS  
27 SUBTITLE BY PROVIDING TO EACH INDIVIDUAL WHOSE PERSONAL INFORMATION  
28 WAS OR MAY HAVE BEEN ACQUIRED BY AN UNAUTHORIZED INDIVIDUAL:

29 (I) WRITTEN NOTIFICATION; OR

30 (II) ELECTRONIC NOTIFICATION IF THE ELECTRONIC  
31 NOTIFICATION IS CONSISTENT WITH THE REQUIREMENTS FOR ELECTRONIC  
32 RECORDS AND SIGNATURES UNDER TITLE 21 OF THIS ARTICLE.

33 (2) IF THE COST OF PROVIDING NOTIFICATION WOULD BE GREATER  
34 THAN \$35,000 OR IF NOTIFICATION WOULD HAVE TO BE PROVIDED TO MORE THAN  
35 70,000 INDIVIDUALS, A PERSON REQUIRED TO GIVE NOTIFICATION UNDER § 14-3202  
36 OF THIS SUBTITLE MAY COMPLY WITH THE NOTIFICATION REQUIREMENT BY:

37 (I) SENDING NOTIFICATION BY ELECTRONIC MAIL TO EACH  
38 INDIVIDUAL FOR WHOM THE PERSON HAS A VALID ELECTRONIC MAIL ADDRESS;

1 (II) IF THE PERSON MAINTAINS A WEBSITE, CONSPICUOUSLY  
2 POSTING THE NOTIFICATION ON THE WEBSITE; AND

3 (III) PUBLISHING THE NOTIFICATION IN A NEWSPAPER OF  
4 STATEWIDE CIRCULATION OR IN A NEWSPAPER PUBLISHED IN OR HAVING GENERAL  
5 CIRCULATION IN EACH COUNTY WHERE AN INDIVIDUAL ENTITLED TO  
6 NOTIFICATION UNDER § 14-3202 OF THIS SUBTITLE RESIDES.

7 14-3204.

8 A PERSON WHO VIOLATES THIS SUBTITLE IS LIABLE TO THE INDIVIDUAL  
9 ENTITLED TO RECEIVE NOTICE UNDER § 14-3202 OF THIS SUBTITLE FOR:

10 (1) THE GREATER OF \$500 OR ACTUAL DAMAGES; AND

11 (2) REASONABLE ATTORNEY'S FEES.

12 **Article - State Government**

13 10-611.

14 (f) (1) ["Personal] EXCEPT AS PROVIDED IN § 10-629 OF THIS SUBTITLE,  
15 "PERSONAL information" means information that identifies an individual including  
16 an individual's address, driver's license number or any other identification number,  
17 medical or disability information, name, photograph or computer generated image,  
18 Social Security number, or telephone number.

19 (2) "Personal information" does not include an individual's driver's  
20 status, driving offenses, 5-digit zip code, or information on vehicular accidents.

21 10-629.

22 (A) IN THIS SECTION, "PERSONAL INFORMATION" MEANS:

23 (1) AN INDIVIDUAL'S FIRST NAME OR FIRST INITIAL AND LAST NAME;  
24 AND

25 (2) ONE OF THE FOLLOWING:

26 (I) THE INDIVIDUAL'S DRIVER'S LICENSE NUMBER OR OTHER  
27 IDENTIFICATION NUMBER;

28 (II) THE INDIVIDUAL'S BANK OR OTHER FINANCIAL INSTITUTION  
29 ACCOUNT NUMBER;

30 (III) THE INDIVIDUAL'S CREDIT OR DEBIT CARD NUMBER; OR

31 (IV) THE INDIVIDUAL'S SOCIAL SECURITY NUMBER.

32 (B) A CUSTODIAN OF A COMPUTERIZED PUBLIC RECORD THAT CONTAINS AN  
33 INDIVIDUAL'S PERSONAL INFORMATION SHALL NOTIFY THE INDIVIDUAL OF AN

1 UNAUTHORIZED ACCESS TO THE COMPUTERIZED PUBLIC RECORD IF, AS A RESULT  
2 OF THE UNAUTHORIZED ACCESS, THE INDIVIDUAL'S PERSONAL INFORMATION:

3 (1) HAS BEEN ACQUIRED BY AN UNAUTHORIZED INDIVIDUAL; OR

4 (2) IS REASONABLY BELIEVED TO HAVE BEEN ACQUIRED BY AN  
5 UNAUTHORIZED INDIVIDUAL.

6 (C) EXCEPT AS PROVIDED IN SUBSECTIONS (D) AND (E) OF THIS SECTION, THE  
7 NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION SHALL BE  
8 GIVEN AS SOON AS PRACTICABLE AFTER THE UNAUTHORIZED ACCESS IS  
9 DISCOVERED.

10 (D) (1) THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS  
11 SECTION MAY BE DELAYED IF A LAW ENFORCEMENT AGENCY DETERMINES THAT  
12 THE NOTIFICATION WILL IMPEDE A CRIMINAL INVESTIGATION.

13 (2) THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS  
14 SECTION SHALL BE GIVEN AS SOON AS PRACTICABLE AFTER THE LAW  
15 ENFORCEMENT AGENCY DETERMINES THAT THE NOTIFICATION WILL NOT IMPEDE A  
16 CRIMINAL INVESTIGATION.

17 (E) THE NOTIFICATION REQUIRED UNDER SUBSECTION (B) OF THIS SECTION  
18 MAY BE DELAYED IN ORDER TO TAKE MEASURES NECESSARY TO:

19 (1) DETERMINE THE SCOPE OF THE UNAUTHORIZED ACCESS TO THE  
20 COMPUTERIZED PUBLIC RECORD; OR

21 (2) RESTORE THE REASONABLE INTEGRITY OF THE COMPUTERIZED  
22 PUBLIC RECORD.

23 (F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CUSTODIAN  
24 MAY COMPLY WITH THE NOTIFICATION REQUIREMENT UNDER SUBSECTION (B) OF  
25 THIS SECTION BY PROVIDING TO EACH INDIVIDUAL WHOSE PERSONAL  
26 INFORMATION WAS OR MAY HAVE BEEN ACQUIRED BY AN UNAUTHORIZED  
27 INDIVIDUAL:

28 (I) WRITTEN NOTIFICATION; OR

29 (II) ELECTRONIC NOTIFICATION IF THE ELECTRONIC  
30 NOTIFICATION IS CONSISTENT WITH THE REQUIREMENTS FOR ELECTRONIC  
31 RECORDS AND SIGNATURES UNDER TITLE 21 OF THE COMMERCIAL LAW ARTICLE.

32 (2) IF THE COST OF PROVIDING NOTIFICATION WOULD BE GREATER  
33 THAN \$35,000 OR IF NOTIFICATION WOULD HAVE TO BE PROVIDED TO MORE THAN  
34 70,000 INDIVIDUALS, A CUSTODIAN MAY COMPLY WITH THE NOTIFICATION  
35 REQUIREMENT UNDER SUBSECTION (B) OF THIS SECTION BY:

36 (I) SENDING NOTIFICATION BY ELECTRONIC MAIL TO EACH  
37 INDIVIDUAL FOR WHOM THE CUSTODIAN HAS A VALID ELECTRONIC MAIL ADDRESS;

1 (II) CAUSING THE NOTIFICATION TO BE CONSPICUOUSLY POSTED  
2 ON THE WEBSITE OF THE UNIT OF GOVERNMENT WHERE THE CUSTODIAN IS  
3 EMPLOYED; AND

4 (III) PUBLISHING THE NOTIFICATION IN A NEWSPAPER OF  
5 STATEWIDE CIRCULATION OR IN A NEWSPAPER PUBLISHED IN OR HAVING GENERAL  
6 CIRCULATION IN EACH COUNTY WHERE AN INDIVIDUAL ENTITLED TO  
7 NOTIFICATION UNDER SUBSECTION (B) OF THIS SECTION RESIDES.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2004.