HOUSE
RESEARCH
ORGANIZATION bill digest   5/2/2019

HB 4390 (2nd reading)
Capriglione, et al.
(CSHB 4390 by Darby)

SUBJECT: Creating the Texas Privacy Protection Advisory Council

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 7 ayes — Martinez Fischer, Darby, Beckley, Collier, Parker, Patterson, Shine

                0 nays

                2 absent — Landgraf, Moody

WITNESSES: For — John Heasley, Texas Bankers Association; Chris Humphreys, The Anfield Group; (*Registered, but did not testify*: Caleb Troxclair, Data Foundry, Golden Frog, Giganews, SuperNews; Sandy Dunn; Bill Kelberlau)

                Against — Sarah Matz, Computing Technology Industry Association; James Hines, Texas Association of Business; Deborah Giles, Texas Technology Consortium; (*Registered, but did not testify*: Jay Thompson, Afact; Fred Bosse, American Property Casualty Insurance Association; Scott Hutchinson, Association of Electric Companies of Texas; Jason Winborn, AT&T; Dana Harris, Austin Chamber of Commerce; John Marlow, Chubb; Randy Lee, First American Title Insurance Company; Pamela Bratton, Meador Staffing Services, Inc.; Paul Martin, National Association of Mutual Insurance Companies; Mackenna Wehmeyer, North San Antonio Chamber; Jeff Heckler, PublicData.com; Royce Poinsett, RealPage Inc.; David Foy, RELX/LexisNexis; Randy Kildow, Texas Association of Licensed Investigators; David Edmonson, TechNet; David Mintz, Texas Apartment Association; Lauren Fairbanks, Texas Association of Manufacturers; Walt Baum, Texas Cable Association; Nora Belcher, Texas e-Health Alliance; Patricia Shipton, Texas Healthcare and Biosciences Institute; Jim Sheer, Texas Retailers Association)

                On — Stephen Scurlock, Independent Bankers Association of Texas; (*Registered, but did not testify*: Troy Alexander, Texas Medical

Association)

BACKGROUND: Business and Commerce Code sec. 521.053(b) requires a person who conducts business in the state and owns or licenses computerized data that includes sensitive personal information to disclose any discovered breach of system security to any individual whose sensitive personal information was or is reasonably believed to have been acquired by an unauthorized person. This disclosure must be made as quickly as possible.

It has been suggested that strengthening notification requirements in the case of a security breach affecting sensitive personal information could better protect individuals from potential harm.

DIGEST: CSHB 4390 would modify requirements for the disclosure of data breaches affecting sensitive personal information and would create the Texas Privacy Protection Advisory Council.

Privacy protection council. The bill would create the Texas Privacy Protection Advisory Council to study data privacy laws in Texas, other states, and relevant foreign jurisdictions.

The council would be composed of:

- five members of the House of Representatives appointed by the House speaker;
- five senators appointed by the lieutenant governor; and
- five members of relevant industries, appointed by the governor as specified in the bill.

The House speaker and lieutenant governor would each designate a co-chair from among their respective appointments to the council.

The council would study and evaluate laws governing the privacy and protection of information that alone or in conjunction with other information identified or was linked to a specific individual, technological device, or household. The council also would make recommendations to

the Legislature on specific statutory changes regarding the privacy and protection of that information.

The governor, lieutenant governor, and House speaker would have to appoint the council's members by the 60th day after the effective date of the bill. The council would have to report its findings and recommendations to the Legislature by December 1, 2020.

This section would expire December 31, 2020.

Deadline for disclosure of data breaches. CSHB 4390 would require disclosures of system security breaches in which an individual's sensitive personal information was or was reasonably believed to have been acquired by an authorized person to be made without unreasonable delay and in each case not later than the 60th day after the date on which it was determined that the breach occurred.

The bill also would require the person or entity who owned or licensed the data including sensitive personal information that was the subject of the security breach to notify the attorney general if the breach involved 250 or more state residents. This notification would include:

- a detailed description of the nature and circumstances of the breach or the use of sensitive information acquired as a result;
- the number of Texas residents affected;
- measures taken by the person or entity regarding the breach;
- any measures that the person or entity intended to take regarding the breach after the notification; and
- information on whether law enforcement was engaged in investigating the breach.

The bill would take effect September 1, 2019.