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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Cockley and Rader

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SUMMARY

- Prohibits any state agency, state official, data broker, or private entity from selling, communicating, or otherwise furnishing sensitive data to any data broker or private entity with the intent to generate profit, except under limited exceptions provided by the bill.
- Creates a private right of action for any person harmed by a violation of the bill's prohibitions to recover statutory damages, actual damages, reasonable attorney's fees, and in some cases, punitive damages.
- Makes a violation of the bill's provisions a fourth degree felony if the offender is determined to be a repeat offender, with prior knowing repeated violations or violations involving false pretenses in obtaining the sensitive data.

DETAILED ANALYSIS

Sensitive personal data prohibitions

Ohio's Personal Information Systems Law governs the use and disclosure of personal information by state agencies (such as, for example, any state agency or department or state institution of education) and local agencies (such as, for example, municipal corporations, townships, and special purpose districts like port authorities and library districts) in Ohio. The law also establishes those agencies' duties related to that information and the systems in which it is retained and managed. Furthermore, the law provides protections against wrongful disclosure. "Personal information" is any information that describes anything about a person, or that indicates actions done by or to a person, or that indicates that a person possesses certain

personal characteristics, and that contains, and can be retrieved from a system by, a name, identifying number, symbol, or other identifier assigned to a person.[1]

The bill expands existing law to apply to sensitive data. "Sensitive data" includes any information regarding an individual's name, date of birth, Social Security number, telephone number, character, general reputation, personal characteristics, immigration status, facial recognition data, or mode of living. Under the bill, personal information includes sensitive data.[2]

The bill prohibits any state agency, state official, data broker, or private entity from selling, communicating, or otherwise furnishing sensitive data to any data broker or private entity with the intent of generating profit from that data. However, the bill creates the following exceptions to this prohibition:

- That data will be used for a permitted use;
- The sharing of that data is done with the informed consent of the individual;
- The sharing of that data is required by a warrant, court order, or subpoena;
- The sharing of that data is otherwise required by state or federal law.[3]

Under the bill, a "permitted use" includes the evaluation of credit or insurance that is used primary for any of the following purposes:

- Personal, family, or household purposes;
- Employment purposes;
- In the valuation of a potential investor or servicer;
- By a local child support enforcement agency establishing an individual's capacity to make child support payments or determining the appropriate level of such payment;
- By the federal deposit insurance corporation or national credit union administration as part of its appointment process or exercise of its conservator, receiver, or liquidating agent powers;
- In response to a court order, subpoena, or judicial warrant;
- In accordance with the written instructions of the consumer to whom it relates;
- In the investigation of a criminal offense.[4]

[1] R.C. Chapter 1347.

[2] R.C. 1347.01(E) and (I).

[3] R.C. 1347.072(A).

[4] R.C. 1347.01(J).

If sensitive data is sold or communicated for a permitted use, the bill prohibits the receiving party from subsequently further using or communicating the data for any reason other than a permitted use.[5]

Civil action

The bill permits a person harmed by a person or entity that violated the bill's prohibition against selling or communicating sensitive data to bring a civil action against that person or entity. If the plaintiff prevails, the bill permits the plaintiff to recover statutory damages of $500, actual damages as determined by the court, and reasonable attorney's fees. If the harm was done by a person or entity who obtained the sensitive data under false pretenses or who knowingly obtained the data without a permitted use, the bill increases the awarded statutory damages to $2,500 and permits the imposition of punitive damages determined by the court.[6]

Criminal penalty

Under the bill, a violation of its prohibition against selling or communicating sensitive data is a felony of the fourth degree if both of the following are true:

- The person is determined by a court of competent jurisdiction to be a repeat offender;
- The person has committed repeated prior violations knowingly or has committed prior violations involving false pretenses related to obtaining the sensitive data.

The bill requires the Attorney General to prosecute the person in any court of competent jurisdiction in Ohio.[7]

HISTORY

Action	Date
Introduced	03-31-26

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[5] R.C. 1347.072(B).

[6] R.C. 1347.10(B).

[7] R.C. 1347.99(C).