

(H. B. 2130)

(No. 97)

(Approved June 19, 2008)

AN ACT

To add a new subsection (d) to Section 2, to amend the first paragraph of Section 3, and to amend the first paragraph of Section 4 of Act No. 111 of September 7, 2005 with the purpose of requiring from all public entities of the three Branches of the Government of Puerto Rico, as well as from all private entities, to inform about any breach or irregularity in the security systems of their databases.

STATEMENT OF MOTIVES

Technology allows the constant development of improvements that facilitate countless of functions. Examples of this are the databases that public and private entities maintain to compile and manage information.

In Puerto Rico, both the federal and the state government, manage citizens' information through databases. The Vital Statistics Registry of the Department of Health, the Department of Transportation and Public Works, the Commonwealth Elections Commission, financial institutions, among others, are examples of the public and private institutions that compile and use vast amounts of the citizens' personal information. The act of giving information to obtain a service does not mean that all the information registered and filed is automatically public.

In fact, state and federal courts recognize the existence of information that, because of its nature, and even if it is provided voluntarily, should be protected from disclosure and unauthorized use. The fact that databases of public and private entities are important and often essential for the adequate operation of the referred entity, is not questioned. However, in the same

manner, it is recognized that there is an expectation among the citizens that some of the information provided and compiled shall not be disclosed or accessible to third parties. For this reason, pursuant to statutes and state and federal judicial decisions, many public and private institutions have established security protocols. These security measures deal with such issues as: compilation, retention, protection, use, disclosure and access to databases.

For example, Act No. 111 of September 7, 2005, commonly known as “Citizen Information on Data Banks Security Act,” has the purpose of providing consumers with an instrument that allows him/her to know when his/her personal information and, consequently, his/her good name and credit are at risk. In spite of the protection provided by this Act, the same did not include government entities in its provisions. This measure, which complements the “Public Documents Administration Act,” provides that the entities of the three Government Branches shall establish and enforce basic protection norms for the personal, private or sensitive information they maintain in their databases.

In this manner, norms on all that pertains to the information registered in the databases shall be uniformed. Furthermore, the information, security measures and procedures can be accurately identified in order to ensure the security and privacy of the citizenry.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1. – A new subsection (d) is hereby added to Section 2 of Act No. 111 of September 7, 2005 to read as follows:

“Section 2. – For the purposes of this Act:

(a) ...

(d) “entity” means every agency, board, body, examining board, corporation, public corporation, committee, independent office,

division, administration, bureau, department, authority, official, instrumentality or administrative organism of the three branches of the Government; every corporation, partnership, association, private company or organization authorized to do business or operate in the Commonwealth of Puerto Rico; as well as every public or private educational institution, regardless of the level of education offered by it.

(e) “Citizen’s Advocate” refers to the “Citizen’s Advocate Office.”

Section 2. – The first paragraph of Section 3 of Act No. 111 of September 7, 2005 is hereby amended to read as follows:

“Section 3. - Any entity that is the owner or custodian of a database that includes personal information of citizens residents of Puerto Rico must notify said citizens of any breach of the security of the system when the database whose security has been breached contains, in whole or in part, personal information files and the same are not protected by an encrypted code but only by a password.

...”

Section 3. – The first paragraph of Section 4 of Act No. 111 of September 7 of 2005 is hereby amended to read as follows:

“Section 4.-The notice of breach of the security of the system shall be submitted in a clear and conspicuous manner and should describe the breach of the security of the system in general terms and the type of sensitive information compromised. The notification shall also include a toll free number and an Internet site for people to use in order to obtain information or assistance.

...”

Section 4 – A new Section 7 is hereby added to read as follows:

“Section 7 – In those cases in which the breach or irregularity in the security systems of the database occurs in a government agency or public corporation, it shall be notified to the Citizen’s Advocate Office, which shall assume jurisdiction. For this purpose, the Citizen’s Advocate shall designate a Specialized Advocate who shall address these types of cases.”

Section 5 – A new Section 8 is hereby added to read as follows:

“Section 8 – The Citizen’s Advocate shall create within its Office the position of Databases Security Systems Specialized Advocate of the Government of Puerto Rico and shall draft and establish bylaws for compliance with the provisions of this Act within one hundred and twenty (120) days after its approval.

Section 6 – Sections 7, 8 and 9 are renumbered as Section 9, 10 and 11

Section 7 – This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 97 (H.B. 2130) of the 7th Session of the 15th Legislature of Puerto Rico:

AN ACT to add a new subsection (d) to Section 2, to amend the first paragraph of Section 3, and to amend the first paragraph of Section 4 of Act No. 111 of September 7, 2005 with the purpose of requiring from all public entities of the three Branches of the Government of Puerto Rico, as well as from all private entities, to inform about any breach or irregularity in the security systems of their databases,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 15th of October of 2008.

Francisco J. Domenech
Director