

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0942-01  
Bill No.: SB 245  
Subject: Attorney General-State; Business and Commerce; Consumer Protection  
Type: Original  
Date: February 16, 2009

Bill Summary: Creates consumer notification requirements for data security breaches

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
General Revenue	\$0 or (Unknown - Could exceed \$100,000)	\$0 or (Unknown - Could exceed \$100,000)	\$0 or (Unknown - Could exceed \$100,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0 or (Unknown - Could exceed \$100,000)</b>	<b>\$0 or (Unknown - Could exceed \$100,000)</b>	<b>\$0 or (Unknown - Could exceed \$100,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2010	FY 2011	FY 2012
Various State Funds	\$0 or (Unknown - Could exceed \$100,000)	\$0 or (Unknown - Could exceed \$100,000)	\$0 or (Unknown - Could exceed \$100,000)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 or (Unknown - Could exceed \$100,000)</b>	<b>\$0 or (Unknown - Could exceed \$100,000)</b>	<b>\$0 or (Unknown - Could exceed \$100,000)</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 9 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>
<b>Local Government</b>	<b>\$0 or (Unknown - Could exceed \$100,000)</b>	<b>\$0 or (Unknown - Could exceed \$100,000)</b>	<b>\$0 or (Unknown - Could exceed \$100,000)</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Office of Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Office of State Courts Administrator** state this proposal will have no fiscal impact on the Courts.

Officials from the following agencies state this proposal will have no fiscal impact on their respective agencies: **Office of State Treasurer; Missouri House of Representatives; Office of State Public Defender; Department of Transportation and Patrol Employees' Retirement System; Joint Committee on Administrative Rules; Missouri Consolidated Health Care Plan; Missouri Ethics Commission; State Tax Commission; Department of Mental Health; Department of Public Safety - Division of Alcohol and Tobacco Control, Capitol Police, Division of Fire Safety and Missouri State Highway Patrol; and Department of Higher Education.**

Officials from the **Office of Administration - Budget and Planning** state the proposed legislation should not result in additional costs or savings to the Division of Budget and Planning.

Officials from the **Joint Committee on Public Employee Retirement** assume this proposed legislation would not affect retirement plans as defined in §105.660(5).

Officials from the **Department of Labor and Industrial Relations (DOLIR)** responded that §407.1145.2(1) and (1)(a); 407.1145.2(2); and 407.1145.2(3) states a security breach would result in the need to notify all individuals whose information was compromised. This could result in the preparation of a massive number of documents in a short period of time. These documents could be computer generated and could result in administrative expense. The proposed legislation provides that if there is a breach, DOLIR would need to "provide notice to the affected consumer that there has been a breach of security following discovery or notification of the breach." The proposed legislation requires this notice to be made "without unreasonable delay." in §407.1145.2(1) and (1)(a). This expense could be absorbed through current funds.

Officials from the **Missouri Senate** state this proposal will either have no fiscal impact if it relates to their agency or minimal costs which can be absorbed by present appropriations.

ASSUMPTION (continued)

Officials from the **Department of Revenue (DOR)** state this proposal will have a minimal fiscal impact on DOR. The postage amount would depend on the number of notifications that must be mailed if security information is breached.

Officials from the **Office of Secretary of State** assume an unknown cost.

Officials from the **Department of Conservation (MDC)** assume this proposed legislation would have fiscal impact on MDC funds if a data security breach did occur. MDC has in excess of two million records for permit customers. MDC does not anticipate any data security breaches; however, if a breach did occur, the amount of impact is unknown but is expected to exceed \$100,000.

Officials from the **Office of State Auditor (SAU)** state the fiscal impact of this proposed legislation is unknown. SAU takes steps to protect the information entrusted to their office, but cannot know of future breaches or the cost of notification as required by the proposal.

Officials from the **Department of Elementary and Secondary Education (DESE)**, state that, per OA ITSD staff, the proposal would require anyone with personal information to notify consumers if there is a security breach.

The cost to post notice would depend on the number of people involved in a breach - but if the MOSIS system was breached, the cost would be around \$500,000 to mail out letters or contact parents in another manner. The number of kids in the MOSIS system is around 1,000,000. Costs would be similar if a breach occurred in teacher certification. This would not include time to gather the information, compose the notice, and other tasks.

If there were a breach, much work will be required to field questions and answer phone calls. The amount of time would depend on the severity and size of the breach. A "normal" breach could result in approximately 800 hours of additional administrative support.

Officials from the **Department of Public Safety - Missouri Veterans Commission** state the cost in calculating the cost of providing notice, which could be up to \$25,000 for any one data security breach, the cost of providing a toll free number for consumers to contact the agency to learn more about the breach and their rights, the cost of implementing this consumer protection program, and the cost of providing one consumer report on a quarterly basis for a period of two years to each affected Missouri consumer.

ASSUMPTION (continued)

Officials from the **Department of Public Safety - Missouri Gaming Commission** state there

are about 13,000 licensees in the Missouri Gaming Commission data bank and about 200 employees that could be affected. Assuming a maximum of one security breach per year, the maximum cost to provide written notification per security breach would be \$5,544. Where appropriate, the cost to provide email notification would be much less.

Officials from the **Department of Agriculture** deferred to OA/ITSD regarding estimate of fiscal impact.

Officials from the **Department of Economic Development** assumed no impact; however, it was estimated that this proposed legislation could have a fiscal impact on Missouri Housing Development Commission (MHDC) Funds. The amount of impact is unknown, because it varies with the size of the security breach and the method used to contact consumers. MDHC's operations are funded outside the state treasury.

Officials from the **Metropolitan Community College** state this proposed legislation would have no significant fiscal impact on their college.

Officials from **Linn State Technical College, Missouri Western State University, Lincoln University, and Missouri Southern State University** assume minimal or no fiscal impact to their respective institutions.

Officials from the **St Louis Community College** state they currently maintain more than one million records on file and the notification costs resulting from a security breach would be high.

Officials from the **University of Missouri** state this proposal, based on past experience, would result in a request in an annual appropriations of \$515,108.

Officials from the **University of Central Missouri** estimate the fiscal impact to their university would be from \$2,500 to \$25,000, depending on the scope of the breach.

Officials from **Missouri State University** state it is their policy to offer one year of credit reporting for any breach. This proposal would require the additional expense of an extra year of credit monitoring for any consumer whose information is breached at a cost of approximately \$20 per consumer.

#### ASSUMPTION (continued)

**Oversight** assumes it is unknown how many, if any, security breaches could occur each year. The fiscal impact to various state agencies and local political subdivisions in the event of a data



<u>Cost</u> - Local Political Subdivisions - Security breach notification expense	\$0 or (Unknown - Could exceed <u>\$100,000)</u>	\$0 or (Unknown - Could exceed <u>\$100,000)</u>	\$0 or (Unknown - Could exceed <u>\$100,000)</u>
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**ESTIMATED NET EFFECT ON  
LOCAL POLITICAL SUBDIVISIONS**

<u>\$0 or</u> <u>(Unknown -</u> <u>Could exceed</u> <u>\$100,000)</u>	<u>\$0 or</u> <u>(Unknown -</u> <u>Could exceed</u> <u>\$100,000)</u>	<u>\$0 or</u> <u>(Unknown -</u> <u>Could exceed</u> <u>\$100,000)</u>
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FISCAL IMPACT - Small Business

Small businesses who have had a data security breach and need to notify consumers could see a negative fiscal impact resulting from this proposed legislation.

FISCAL DESCRIPTION

This proposed requires entities that handle personal information relating to Missouri residents to notify the affected individuals if the entity discovers that security of the personal information has been breached. The notification must be made without unreasonable delay, but may be delayed by a law enforcement agency if the notification would compromise an investigation.

Notification to affected individuals of a breach may be made in writing or via e-mail. In cases when the cost of notifying all the affected persons would exceed \$250,000, when there are over 500,000 people to notify, or when the entity does not have sufficient contact information to notify in writing or e-mail, the entity may use alternate notification procedures as described.

The notification must disclose the type of personal information compromised, a toll-free number which affected individuals may call for more information, and contact information for the major credit reporting agencies.

Entities required to notify people under this act must also arrange for each notified person to receive a copy of his or her credit report at regular intervals for two years after the breach incidence.

FISCAL DESCRIPTION (continued)

Persons injured by a violation of this act may seek civil damages and any entity that violates or

proposes to violate the act may be enjoined.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

#### SOURCES OF INFORMATION

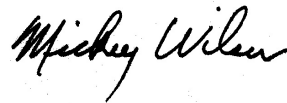
Office of Attorney General  
Office of State Courts Administrator  
Department of Labor and Industrial Relations  
Office of State Treasurer  
Office of Secretary of State  
Department of Conservation  
Missouri House of Representatives  
Office of State Public Defender  
Department of Transportation and Patrol Employees' Retirement System  
Office of State Auditor  
Missouri Senate  
Office of Administration  
    Division of Budget and Planning  
Joint Committee on Administrative Rules  
Missouri Consolidated Health Care Plan  
Missouri Ethics Commission  
State Tax Commission  
Department of Revenue  
Department of Mental Health  
Department of Public Safety  
    Missouri State Highway Patrol  
    Capitol Police  
    Division of Fire Safety  
    Division of Alcohol and Tobacco Control  
    Missouri Veterans Commission  
    Missouri Gaming Commission  
Department of Higher Education  
Department of Elementary and Secondary Education  
Joint Committee on Public Employee Retirement  
Department of Agriculture  
SOURCES OF INFORMATION (continued)

Department of Economic Development



Colleges and Universities

St Louis Community College  
Metropolitan Community College  
Linn State Technical College  
Missouri Western University  
Lincoln University  
Missouri Southern State University  
University of Missouri  
University of Central Missouri  
Missouri State University



Mickey Wilson, CPA  
Director  
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