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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2005

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A N A C T

RELATING TO CRIMINAL OFFENSES -- COMPUTER CRIME

Introduced By: Representatives Kilmartin, Moran, Ucci, and Gallison

Date Introduced: March 01, 2005

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-52 of the General Laws entitled "Computer Crime" is hereby
2 amended by adding thereto the following section:

3 **11-52-9. Data theft -- Duty to disclose.** – (a) Any state agency or person that owns or
4 licenses computerized data that includes personal information shall disclose any breach of the
5 security of the system following discovery or notification of the breach in the security of the data
6 to any resident of Rhode Island whose unencrypted personal information was, or is reasonably
7 believed to have been, acquired by an unauthorized person. The disclosure shall be made in the
8 most expedient time possible and without unreasonable delay, consistent with the legitimate
9 needs of law enforcement, as provided in subsection (c), or any measures necessary to determine
10 the scope of the breach and restore the reasonable integrity of the data system.

11 (b) Any state agency or person that maintains computerized data that includes personal
12 information that the state agency or person does not own shall notify the owner or licensee of the
13 information of any breach of security of the data immediately following discovery, if the personal
14 information was, or is reasonably believed to have been, acquired by an unauthorized person.

15 (c) The notification required by this section may be delayed if a law enforcement agency
16 determines that the notification will impede a criminal investigation. The notification required by
17 this section shall be made after the law enforcement agency determines that it will not
18 compromise the investigation.

19 (d) For the purposes of this section, "breach of the security of the system" means

1 unauthorized acquisition of computerized data that compromises the security, confidentiality, or
2 integrity of personal information maintained by the state agency or person. Good faith
3 acquisition of personal information by an employee or agent of the state agency or person for the
4 purposes of the state agency or person is not a breach of the security of the system; provided, that
5 the personal information is not used or subject to further unauthorized disclosure.

6 (e) For the purposes of this section, "personal information" means an individual's first
7 name or first initial and last name in combination with any one or more of the following data
8 elements, when either the name or the data elements are not encrypted:

9 (1) Social security number.

10 (2) Driver's license number or Rhode Island identification card number.

11 (3) Account number, credit or debit card number, in combination with any required
12 security code, access code, or password that would permit access to an individual's financial
13 account.

14 (f) For purposes of this section, "personal information" does not include publicly
15 available information that is lawfully made available to the general public from federal, state or
16 local government records.

17 (g) For purposes of this section, "notice" may be provided by one of the following
18 methods:

19 (1) Written notice.

20 (2) Electronic notice, if the notice provided is consistent with the provisions regarding
21 electronic records and signatures set forth on Section 7001 of Title 15 of the United States Code.

22 (3) Substitute notice, if the state agency or person demonstrates that the cost of providing
23 notice would exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of
24 subject persons to be notified exceeds five hundred thousand dollars (\$500,000) or the state
25 agency or person does not have sufficient contact information. Substitute notice shall consist of
26 all of the following:

27 (A) E-mail notice when the state agency or person has an e-mail address for the subject
28 persons.

29 (B) Conspicuous posting of the notice on the state agency's or person's website page, if
30 the state agency or person maintains one.

31 (C) Notification to major statewide media.

32 (h) Notwithstanding subdivision (g) a state agency or person that maintains its own
33 notification procedures as part of an information security policy for the treatment of personal
34 information and is otherwise consistent with the timing requirements of this part shall be deemed

- 1 [to be in compliance with the notification requirements of this section if it notifies subject persons](#)
- 2 [in accordance with its policies in the event of a breach of security of the system.](#)

3 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would establish a duty to disclose any breach of security of a computerized data
2 system.
3 This act would take effect upon passage.

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