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H.B. 801
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Russo

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SUMMARY

- Prohibits state agencies from collecting private information unnecessary to the agency's functions and duties.
- Prohibits state agencies from disclosing private information, subject to certain exemptions and federal law.
- Creates a private cause of action for individuals harmed by a violation of the bill's provisions.
- Names the bill the Ohio Privacy Act.

DETAILED ANALYSIS

Prohibitions

The bill, named the Ohio Privacy Act, regulates the ability of state agencies to collect and disclose the private information of individuals.[1] "**Private information**" is any data about an individual that is not a public record and a "**state agency**" is any organized body, office, or agency (except JobsOhio) established by the state for the exercise of any function of state government, and the employees and agents thereof.[2]

The bill prohibits state agencies from collecting private information on individuals beyond what is necessary for the state agency to perform its functions and duties, including meeting any

[1] Section 2 of the bill.

[2] R.C. 149.61; R.C. 1.60, not in the bill.

reporting requirements. In addition, state agencies are prohibited from collecting private information pertaining to a person's citizenship or immigration status unless required by law.[3]

The bill also prohibits state agencies from disclosing private information for a purpose not directly connected with the administration of the state agency's programs unless the agency is required to do so by federal law, or unless the agency enters an information sharing agreement with the entity to which the information is disclosed. The bill requires an entity entering into an information sharing agreement with a state agency agree to all of the following: (1) to not share the private information further, (2) to only use the private information for a purpose directly connected with the administration of an agency's programs, and (3) that misuses of private information terminates the information sharing agreement and that the entity may be liable to the agency for any penalties the agency faces under the bill if the entity improperly shares or uses private information.[4]

Under the bill, state agencies also are required to post any active information sharing agreements on the agency's website and list: (1) what type of information will be shared, (2) the entity with which it will be shared, and (3) the stated purpose of the information sharing agreement.[5]

The bill requires a state agency to refer requests that may violate the bill's prohibitions to the Attorney General. The Attorney General then is required to assess the lawfulness of the request and direct the state agency to grant or deny the request as appropriate.[6]

Exemptions

The bill permits state agencies to share private information that has been deidentified to the greatest extent permissible by federal law, if sharing the data would benefit the administration or execution of a public service. "**Deidentified data**" is personal information or data that cannot reasonably be used to infer information about, or otherwise linked to, a particular individual or household.[7]

The bill also permits state agencies to share private information in any of the following circumstances:

- The consent of the individual whose private information would be disclosed is obtained;
- A warrant is signed by an Ohio or federal judge;
- A lawful court order is administered by an Ohio or federal court;

[3] R.C. 149.61(B).

[4] R.C. 149.61(C)(1) and (2).

[5] R.C. 149.61(C)(3).

[6] R.C. 149.61(E).

[7] R.C. 149.61(A)(1) and (D)(1).

- An Ohio or federal subpoena is administered.[8]

Enforcement

The bill creates a private cause of action for individuals harmed due to a violation of the bill's provisions. An individual harmed due to a violation of the bill's provisions is entitled to the following amounts, depending on the provisions of the bill violated:

- An individual harmed due to a state agency collecting private information in violation of the bill's provisions is entitled to $100 per violation;
- An individual harmed due to a state agency failing to post an active information sharing agreement on the agency's website is entitled to $300 per violation;
- An individual harmed due to a state agency disclosing private information in violation of the bill's provisions is entitled to $750 per violation.[9]

In addition to the amounts listed above, a court may award the plaintiff an additional $1,000 per violation if the court finds by a preponderance of evidence that the violation occurred as a result of intentional, willful, or wanton disregard of the bill's provisions.[10]

Intent

The bill also declares that it is the intent of the General Assembly in enacting the bill to recognize Ohio's compelling interest in protecting the privacy and personal information of its residents from government overreach.[11]

HISTORY

Action	Date
Introduced	03-31-26

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[8] R.C. 149.61(D)(2).

[9] R.C. 149.61(F)(1).

[10] R.C. 149.61(F)(2).

[11] R.C. 149.61(G).