

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2214/P1dn
CTS:jld:pg

March 15, 2005

Senator Kanavas:

This draft is based on LRB-1134, and includes revisions based on instructions received from your aide, Michael Richards. Please review it carefully to ensure it is consistent with your intent.

This draft retains a provision from LRB-1134 to the effect that noncompliance with the notice requirements does not constitute negligence or a breach of any legal duty. Presumably, this means that an entity's noncompliance does not necessarily amount to negligence or another basis for civil liability, but that noncompliance may be evidence of negligence or another basis for civil liability. Is this your intent?

I was unable to determine whether the Patriot Act requires financial institutions to disclose breaches of the security of personal information. My research indicates that under the federal Bank Secrecy Act (BSA), certain financial institutions must disclose suspected or known criminal activity in a "suspicious activity report" that is filed with the federal reserve bank and provided to law enforcement officials. While "suspicious activity" may include tampering with personal information, the BSA does not appear to require disclosure of such tampering to the subject of the personal information. Please contact me if you have further questions.

Christopher T. Sundberg
Legislative Attorney
Phone: (608) 266-9739
E-mail: christopher.sundberg@legis.state.wi.us