

### Fiscal Estimate - 2021 Session

Original     
  Updated     
  Corrected     
  Supplemental

<b>LRB Number</b> <b>21-5056/1</b>	<b>Introduction Number</b> <b>SB-779</b>	
<b>Description</b> privacy and security of customer information obtained by a broadband Internet access service provider and providing a penalty		
<b>Fiscal Effect</b>		
<b>State:</b> <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Appropriations  <input type="checkbox"/> Decrease Existing Appropriations  <input type="checkbox"/> Create New Appropriations                             </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Revenues  <input type="checkbox"/> Decrease Existing Revenues                             </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget  <input type="checkbox"/> Yes      <input type="checkbox"/> No  <input type="checkbox"/> Decrease Costs                             </div> </div>		
<b>Local:</b> <input type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;">                     1. <input type="checkbox"/> Increase Costs                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                      2. <input type="checkbox"/> Decrease Costs                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                 </div> <div style="width: 30%;">                     3. <input type="checkbox"/> Increase Revenue                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                      4. <input type="checkbox"/> Decrease Revenue                         <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory                 </div> <div style="width: 30%;">                     5. Types of Local Government Units Affected  <input type="checkbox"/> Towns    <input type="checkbox"/> Village    <input type="checkbox"/> Cities  <input type="checkbox"/> Counties <input type="checkbox"/> Others  <input type="checkbox"/> School Districts    <input type="checkbox"/> WTCS Districts                 </div> </div>		
<b>Fund Sources Affected</b> <b>Affected Ch. 20 Appropriations</b> <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS		
<b>Agency/Prepared By</b> DATCP/ David Woldseth (608) 224-5164	<b>Authorized Signature</b> Jason Gherke (608) 224-4748	<b>Date</b> 2/17/2022

## Fiscal Estimate Narratives

DATCP 2/17/2022

LRB Number	21-5056/1	Introduction Number	SB-779	Estimate Type	Original
<b>Description</b> privacy and security of customer information obtained by a broadband Internet access service provider and providing a penalty					

### Assumptions Used in Arriving at Fiscal Estimate

This bill generally prohibits a broadband Internet access service provider from using, disclosing, or permitting access to a customer's proprietary information unless the customer grants approval to the provider to use, disclose, or permit access to that information. With certain exceptions, the bill requires different types of approval, security, and notifications be provided for sensitive and nonsensitive customer proprietary information.

The bill requires a provider to notify the Department of Agriculture, Trade and Consumer Protection and the Department of Justice within seven business days of learning about a breach of security affecting 5,000 or more customers unless the provider reasonably determines that no harm to customers is reasonably likely to occur as a result of the breach. If a breach of security affects fewer than 5,000 customers, the bill requires a provider to notify DATCP within 30 days after learning about the breach. Under the bill, a provider is required to maintain records for two years that contain information about the notifications made to customers about a breach of security.

A broadband Internet access service provider that intentionally violates the bill is subject to a criminal fine of up to \$1,000, or up to three months in jail, or both. Alternatively, a provider that violates the bill is subject to a civil forfeiture of up to \$50,000 for the first violation, and up to \$100,000 for each subsequent violation.

Additionally, under the bill, any person or class of persons that is adversely affected by a violation by a broadband Internet access service provider can sue the provider for appropriate relief. The bill also authorizes DATCP, DOJ, after consulting with DATCP or any district attorney, upon informing DATCP, to bring an action to restrain by temporary or permanent injunction any violation of the bill.

The Department does not currently regulate Internet providers for data privacy in regard to any data that may be exchanged through Internet use. The Department does regulate electronic communications services under ATCP 123, but the rule addresses subscription disclosures and does not address the quality of that service. Outreach and education would need to be conducted with both consumers and businesses that meet the definition of an Internet provider to inform them of their rights and responsibilities under the regulations.

Current law does not require data breaches to be reported by any business to the Department or to the Attorney General. Certain data breaches, however, must be reported to the consumers whose data was breached. This bill creates a reporting requirement for Internet providers to the Department. The Department reports data breaches by businesses when known on its website but may need to create an additional process to receive Internet provider data breach notifications as they occur.

Current law also does not require Internet providers to discuss the proprietary interests of the data in such a way that the Department monitors. The Department also has not had authority in cases where Internet providers have denied coverage to subscribers; data privacy would create a new line of enforcement.

Under Chapter 100, DATCP would refer cases to the Attorney General's office or to local prosecutors if

needed based on the investigations of consumer complaints. The bill also permits the Attorney General and a district attorney to file charges after consulting DATCP.

Since this represents new enforcement authority for DATCP, it is not clear how many complaints will be filed. The Department plans to absorb costs but may need to seek additional positions in future budgets.

The Department therefore believes the fiscal estimate to be unknown at this time with no immediate need for additional resources.

### **Long-Range Fiscal Implications**

Since this represents new enforcement authority for DATCP, it is not clear how many complaints will be filed. The Department plans to absorb costs but may need to seek additional positions in future budgets.