
Wisconsin Legislative Council

AMENDMENT MEMO



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2021 Senate Bill 160

Senate Substitute Amendment 1 and Senate Amendments 1 and 2 to Senate Substitute Amendment 1

2021 SENATE BILL 160

2021 Senate Bill 160 creates basic requirements for insurance data security. Subject to certain exceptions, the bill requires any person or entity that is licensed, registered, or authorized with the Office of the Commissioner of Insurance (OCI) to develop an information security program in order to protect its information systems and nonpublic information.

Within one year of the bill taking effect, the entity must conduct a risk assessment and design the program to mitigate threats, addressing aspects such as physical access restrictions, access controls into the information system, and encryption. The entity must annually assess the effectiveness of the safeguards, and the program must include regular testing and monitoring. Protection measures must also be implemented with a third-party service provider within two years of the bill taking effect.

The entity must annually certify to OCI its compliance in developing and maintaining the information security program, and must annually report to its Board of Directors, if it has one, on the status and any recommendations for the program.

The bill also requires the entity to develop an incident response plan, and to provide notice to consumers as required under the current, general statutory provision that applies to an entity doing business in Wisconsin if there has been a data breach.

The bill does not apply to smaller entities that are below certain thresholds, to covered entities that are in compliance with the Health Insurance Portability and Accountability Act (commonly referred to as HIPAA), or to depository institutions that are in compliance with federal guidelines for financial institutions. However, under the bill, OCI may require compliance by a smaller entity that is below the thresholds, if warranted for unique circumstances.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 largely maintains those provisions, with some changes.

First, regarding the entities that are exempt from compliance, the substitute amendment adds a new exception for an entity that is in compliance with federal Farm Credit Administration data security guidance. The substitute amendment removes the provision that would have required a smaller entity to comply with the requirements, even if otherwise exempt, if warranted for unique circumstances.

Second, the substitute amendment revises the incorporation of the general requirement under current law for notice to consumers in the event of a data breach. Rather than referencing the general statute, the substitute amendment replicates those provisions within the insurance data security requirements,

applying directly to any person or entity that is licensed, registered, or authorized with OCI. The substitute amendment also requires that a copy of the notice be given to OCI, when notice is sent to a consumer, and that the entity notify the consumer's independent insurance producer.

Third, the substitute amendment maintains the requirement for an entity to implement appropriate protections with a third-party service provider but removes the two-year extension within which that must occur.

Lastly, the substitute amendment revises certain phrases to more specifically refer to the nonpublic information that must be protected.

SENATE AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 1

Senate Amendment 1 to the substitute amendment reinstates the two-year extension within which an entity must implement appropriate protections with a third-party service provider.

The amendment also updates the terminology in certain instances to be more consistent throughout.

SENATE AMENDMENT 2 TO SENATE SUBSTITUTE AMENDMENT 1

Regarding the entities that are exempt from compliance, Senate Amendment 2 to the substitute amendment adds a new exception for a securities broker that is in compliance with the Financial Industry Regulatory Authority (FINRA) information security standards.

BILL HISTORY

Senator Testin offered Senate Substitute Amendment 1 on March 29, 2021, and Senate Amendment 1 to the substitute amendment on April 30, 2021.

On May 12, 2021, the Senate Committee on Insurance, Licensing and Forestry unanimously recommended adoption of Senate Amendment 1 to the substitute amendment, adoption of the substitute amendment, as amended, and passage of the bill, as amended.

On May 14, 2021, Senator Testin offered Senate Amendment 2 to the substitute amendment. On June 9, 2021, the Senate adopted Senate Amendments 1 and 2 to the substitute amendment, adopted the substitute amendment, as amended, and passed the bill, as amended, on voice votes.

MSK:jal