

FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

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JUL 13 2015

SENATE
S.B. No. 1425

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Introduced by Senator Loren Legarda

EXPLANATORY NOTE

This bill seeks to penalize identity theft and misappropriation of sensitive personal information maintained in databases to uphold the right of privacy guaranteed under our Constitution.

Article II of the Philippine Constitution, our Bill of Rights, provides at least two guarantees that clearly identify zones of privacy or a person's "right to be let alone" or the "right to determine what, how much, to whom and when information about himself shall be disclosed". Section 2 guarantees "the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose." Section 3 renders inviolable the "privacy of communication and correspondence" and further cautions that "any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding." These are zones of privacy created by the Constitution that must not be subject to unreasonable government intrusion.

While the State provides for such protection, legislation is needed to address the lack of safeguard to the right of privacy, which has become more vulnerable to unnecessary intrusion and manipulation of unscrupulous individuals and entities that take advantage of the advances of modern technology such as the internet.

This bill aims to address such a loophole by penalizing identity theft and making it compulsory for all persons, corporations, partnerships, associations or any other legal entities organized under Philippine laws to put in place reasonable security and notification procedures and practices to prevent any breach of security and violation of the right of privacy of persons.

Under this bill, identity theft is defined as fraud committed using the sensitive personal information of another individual with the intent to commit, or to aid or abet any unlawful activity that constitutes a violation of any existing laws and result in economic loss to that individual. Identity theft is penalized with imprisonment of not exceeding ten (10) years or a fine ranging from one hundred thousand pesos (P100,000.00) to five hundred thousand pesos (P500,000.00), or both, at the discretion of the court.

In view of the foregoing, the immediate passage of this bill is earnestly sought.


LOREN LEGARDA
Senator

Introduced by Senator Loren Legarda

AN ACT
PROHIBITING THE MISAPPROPRIATION OF PERSONAL INFORMATION
IN DATABASE AND COLLECTIONS OF INFORMATION, PROVIDING A
MECHANISM FOR PROTECTION AGAINST IDENTITY THEFT, AND FOR
OTHER PURPOSES

*Be it enacted by the Senate and the House of Representatives of the Philippines in
Congress assembled:*

1 **SECTION 1. Title.** - This Act shall be known as the "Personal Data
2 **Protection Act of 2010."**

3
4 **SEC. 2. Declaration of Policy.** - As a fundamental right guaranteed by the
5 Constitution, it is the policy of the State to protect the privacy of an individual from
6 any form of intrusion, except when justified in accordance with law. This is
7 consistent with the Universal Declaration of Human Rights, which mandates that
8 "no one shall be subjected to arbitrary interference with his privacy" and that
9 "everyone has the right to the protection of the law against such interference or
10 attacks."

11
12 **SEC. 3. Definition of Terms.** - As used in this Act, the following terms are
13 defined as follows:

- 14 a. Database - a collection of a large number of discrete items of information
15 produced for the purpose of bringing such discrete items of information
16 together in one place or through one source so that persons may access them;
17 b. Identity Theft - a fraud committed using the sensitive personal information of
18 another individual with the intent to commit, or to aid or abet any unlawful
19 activity that constitutes a violation of any existing laws and results in
20 economic loss to that individual;
21 c. Information - refers to facts, data, works of authorship, or any other
22 intangible material capable of being generated or gathered;

- 1 d. Maintain a database -means to update, validate, or supplement information
2 contained in a database;
- 3 e. Making available in commerce to others - means making available in
4 commerce to a substantial number of members of the public or a number of
5 persons that extends beyond a family and its social acquaintances or those
6 who could reasonably anticipate to have access to such database without
7 need of prior customary commercial relationship;
- 8 f. Personal Information - means personally identifiable information about a
9 specific individual;
- 10 g. Sensitive personal information - refers to an individual's first name and
11 surname in combination with any one or more of the following data elements,
12 such as those that relate, but is not limited to, an individual's financial
13 account, credit standing, health conditions, and lineage and pedigree.

14
15 **SEC. 4. *Prohibition Against Misappropriation of Databases.*** - It shall be
16 unlawful for any person to knowingly make available in commerce to others
17 sensitive personal information in a database generated, gathered or maintained
18 about a person if such act resulted to -

- 19 a. The damage, disruption and ineffectiveness of the information generated,
20 gathered or maintained in the database, or
- 21 b. The prejudice of the person with whom the personal information pertains, in
22 the absence of a prior written permission.

23
24 **SEC. 5. *Database Security.*** - Any person, corporation, partnership,
25 association or any entity organized under Philippine laws that owns or licenses
26 database containing sensitive personal information shall develop, implement, and
27 maintain reasonable security and notification procedures and practices appropriate
28 to the scope and nature of the information maintained to ensure the security and
29 confidentiality of the personal information and protect it against any unauthorized
30 access, destruction, use, modification or disclosure.

31
32 **SEC. 6. *Notification Requirements.*** - If such person, corporation, partnership,
33 association or entity that owns or licenses databases containing "sensitive personal
34 information" determines, after discovery and a reasonable investigation, or
35 notification pursuant to the succeeding paragraph, that a significant risk of identity
36 theft exists as a result of a breach of security of the database maintained by it, it shall

1 be its duty to inform and notify, in the most expeditious manner without
2 unnecessary delay, any individual whose personal information was compromised.

3
4 Any person, corporation, partnership, association or any entity organized
5 under Philippine laws in possession of computerized data containing sensitive
6 personal information that the agency or person does not own or license shall notify
7 and cooperate with the owner or licensor of the information upon the discovery of a
8 breach of security of the database in the most expeditious manner without
9 unnecessary delay.

10
11 **SEC. 7. Penalties.** - Any person found guilty of violating Section 4, 5 and 6 of
12 this Act shall be punished with imprisonment of not exceeding ten (10) years or a
13 fine ranging from One Hundred Thousand Pesos (P100,000.00) to Five Hundred
14 Thousand Pesos (P500,000.00), or both, at the discretion of the court.

15
16 If the offense is committed by, or in conspiracy with, a corporation, the
17 officers and directors of the said corporation shall be jointly and solidarily liable
18 with the corporation.

19
20 **SEC. 8. Separability Clause.** - If any part or provision of this Act is held
21 invalid, other parts or provisions hereof not affected thereby shall remain in full
22 force and effect.

23
24 **SEC. 9. Repealing Clause.** - All laws, decrees, orders, rules and regulation, or
25 portions thereof inconsistent with this Act are hereby repealed, amended or
26 modified accordingly.

27
28 **SEC. 10. Effectivity Clause.** - This Act shall take effect fifteen (15) days after
29 its publication in at least two (2) newspapers of general circulation.

30
31 Approved,