

REPORTS OF STANDING COMMITTEES

MADAM PRESIDENT:

The Committee on **Judiciary** recommends **SB 424** be amended on page 1, in line 19, by striking "identifying"; also in line 19, before "means" by inserting "or "holder""; in line 21, by striking "identifying"; in line 22, after "any" by inserting "other"; in line 26, by striking "identifying"; also in line 26, by striking all after "information""; in line 27, by striking all before the period and inserting "means personal information as defined by K.S.A. 50-7a01(g), and amendments thereto, and any other information which identifies an individual for which an information security obligation is imposed by federal or state statute or regulation"; in line 30, by striking "identifying"; in line 33, by striking "identifying"; in line 34, by striking "destruction,"; also in line 34, after "disclosure" by inserting ". If federal or state law or regulation governs the procedures and practices of the holder of personal information for such protection of personal information, then compliance with such federal or state law or regulation shall be deemed compliance with this paragraph and failure to comply with such federal or state law or regulation shall be prima facie evidence of a violation of this paragraph";

On page 2, in line 2, by striking "identifying"; also in line 2, by striking "records are no longer to be retained" and inserting "holder no longer intends to maintain or possess such records"; in line 6, after "(c)" by inserting "A holder of personal information shall have an affirmative defense to a violation of subsection (b)(2) if such holder proves by clear and convincing evidence that:

(1) The violation resulted from a failure of the method of destruction of records to make personal information contained in such records unreadable or undecipherable through any

means, and such failure could not reasonably have been foreseen despite the holder's exercise of reasonable care in selecting and employing a method of destruction; or

(2) the holder of personal information had in effect at the time of the violation a bona fide written or electronic records management policy, including practices and procedures reasonably designed, maintained, and expected to prevent a violation of subsection (b)(2), and that the records involved in the violation of subsection (b)(2) were destroyed or disposed of in violation of such policy. No affirmative defense under this paragraph shall be available unless such holder proves:

(A) The employees or other persons involved in the violation received training in the holder's written or electronic records management policy;

(B) the violation resulted from a good faith error; and

(C) no reasonable likelihood exists that the violation may cause, enable or contribute to identity theft or identity fraud as defined by K.S.A. 2015 Supp. 21-6107, and amendments thereto, or to a violation of an information security obligation imposed by federal or state statute or regulation.

(d) ";

Also on page 2, also in line 6, by striking "A" and inserting "Each"; in line 8, by striking all after "is"; in line 9, by striking all before "shall" and inserting "not destroyed in compliance with subsection (b)(2)"; in line 14, after the period by inserting "Nothing in this section shall be construed to create or permit a private cause of action for any violation of this section.

(f) Nothing in this section relieves a holder of personal information from any duty to comply with other requirements of state and federal law regarding the protection of such information.";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 2, by striking all in lines 35 through 38;

On page 1, in the title, in line 2, by striking "identifying"; and the bill be passed as amended.

_____Chairperson