

**Department of Planning and Budget
2010 Fiscal Impact Statement**

1. **Bill Number** HB 1039

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. **Patron** Byron

3. **Committee** Passed Both Houses

4. **Title** Notification of breach of medical information

5. **Summary/Purpose:** This bill requires notification to residents of the Commonwealth if their unredacted or unencrypted medical information or health insurance information is the subject of a database breach. The notification required by this section would apply only to entities not subject to federal medical information database breach notification regulations. Entities are defined as any state agency, local government, political subdivision or organization/corporation supported wholly or principally with public funds. The Office of the Attorney General must be informed of any breach notification to 1,000 persons or more at any one-time. The bill describes the type of notification required, but provides for substitute notice (through electronic means or major media) if the entity can demonstrate the costs would exceed \$50,000, or more than 100,000 people are affected. This bill would become effective January 1, 2011.

6. **Fiscal Impact Estimates are:** Indeterminable. SEE ITEM 8.

7. **Budget amendment necessary:** No.

8. **Fiscal implications:** This bill will not have a fiscal impact on any state agency or political subdivision in the Commonwealth, unless a breach of personal medical information from a system controlled by such entity occurs. Most state agencies and political subdivisions that typically handle personal medical information are already subject to notification requirements contain in federal laws governing breach of medical information. For example, the state Medicaid program is subject to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) as well as many other state agencies. Higher education institutions are subject to the federal Family Educational Rights and Privacy Act (FERPA). Therefore, most state agencies and political subdivisions are already covered.

This bill basically provides a state law that covers any entity not covered under the various existing federal laws or regulations to provide more comprehensive coverage for the protection of peoples' medical information. The number of such entities is expected to be relatively small and a fiscal impact will only exist when a breach of information occurs. Since such breaches are infrequent the potential exposure should be minimal; however, an exact fiscal impact is indeterminable.

9. **Specific agency or political subdivisions affected:** Any state agency or political subdivision not subject to federal medical information database breach notification requirements.

10. Technical amendment necessary: None.

11. Other comments: None.

Date: 3/2/10 mst

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