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**HOUSE COMMITTEE AMENDMENTS**

2022 Regular Session

Amendments proposed by House Committee on Commerce to Original House Bill No. 987  
by Representative Deshotel

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1 AMENDMENT NO. 12 On page 1, line 2, after "To" and before "enact" insert "amend and reenact R.S.  
3 44:4.1(B)(23) and to enact"4 AMENDMENT NO. 2

5 On page 1, line 3, change "1396" to "1397"

6 AMENDMENT NO. 37 On page 1, line 7, after "fine;" insert "to provide for a data assessment; to provide for public  
8 records;"9 AMENDMENT NO. 4

10 On page 1, line 11, change "1396" to "1397"

11 AMENDMENT NO. 512 On page 2, line 14, delete "biological characteristics" and insert in lieu thereof the following:13 "physical, physiological, or biological characteristics that allow or confirm the  
14 unique identity of a specific individual"15 AMENDMENT NO. 6

16 On page 2, delete lines 22 and 23 in their entirety

17 AMENDMENT NO. 718 On page 2, line 24, change "(iv)" to "(iii)"19 AMENDMENT NO. 820 On page 2, line 25, change "(v)" to "(iv)"21 AMENDMENT NO. 922 On page 3, line 1, change "(9)" to "(9)(a)" and after "means" change "an" to "a clear and"23 AMENDMENT NO. 1024 On page 3, line 2, after "consumer's" and before "voluntary" insert a comma "," and  
25 "specific,"26 AMENDMENT NO. 11

27 On page 3, between lines 3 and 4, insert the following:

28 "(b) "Consent" does not include the following:

- 1                    (i) Acceptance of general or broad terms of use or a similar document that
- 2                    contains descriptions of personal data processing along with other unrelated
- 3                    information.
- 4                    (ii) Hovering over, muting, pausing, or closing a given piece of content."

5    AMENDMENT NO. 12

6    On page 3, delete lines 22 and 23 in their entirety and insert in lieu thereof the following:

- 7                    "(a) Cannot reasonably be used to infer information about, or otherwise be
- 8                    linked to, an identified individual, device, or household."

9    AMENDMENT NO. 13

10   On page 4, line 2, after "in" and before "this" delete "Items (i) and (ii) of"

11   AMENDMENT NO. 14

12   On page 4, delete lines 18 and 19 in their entirety and insert in lieu thereof the following:

- 13                    "(20) "Identified individual" or "identifiable individual" means an individual
- 14                    who can be readily identified, either directly or indirectly, in particular or by
- 15                    reference to an identifier such as a name, an identification number, specific
- 16                    geolocation data, or an online identifier.

17   AMENDMENT NO. 15

18   On page 5, line 6, after "data" and before "aggregated" change the comma "," to a period "."

19   and delete the remainder of the line

20   AMENDMENT NO. 16

21   On page 5, delete line 7 in its entirety

22   AMENDMENT NO. 17

23   On page 5, delete lines 15 through 21 in their entirety

24   AMENDMENT NO. 18

25   On page 5, line 22, change "(29)" to "(28)"

26   AMENDMENT NO. 19

27   On page 5, line 29, change "(30)" to "(29)"

28   AMENDMENT NO. 20

29   On page 6, line 1, change "(31)(a)" to "(30)(a)"

30   AMENDMENT NO. 21

31   On page 6, line 2, after "monetary" and before "consideration" insert "or other valuable"

32   AMENDMENT NO. 22

33   On page 6, line 25, change "(32)(a)" to "(31)(a)"

1 AMENDMENT NO. 23

2 On page 7, between lines 7 and 8, insert the following:

3 "(iv) Biometric data."

4 AMENDMENT NO. 24

5 On page 7, line 16, change "(33)(a)" to "(32)(a)"

6 AMENDMENT NO. 25

7 On page 7, line 19, change "seven" to "eight"

8 AMENDMENT NO. 26

9 On page 7, line 24, change "(34)(a)" to "(33)(a)"

10 AMENDMENT NO. 27

11 On page 8, line 9, change "(35)" to "(34)"

12 AMENDMENT NO. 28

13 On page 8, line 12, change "(36)" to "(35)"

14 AMENDMENT NO. 29

15 On page 12, between lines 21 and 22, insert the following:

16 "(4) Correct inaccuracies in the consumer's personal data.

17 (5) Delete the consumer's personal data."

18 AMENDMENT NO. 30

19 On page 12, delete lines 22 and 23 in their entirety

20 AMENDMENT NO. 31

21 On page 12, line 24, change "(5)" to "(6)"

22 AMENDMENT NO. 32

23 On page 17, line 19, delete "or pseudonymous data"

24 AMENDMENT NO. 33

25 On page 17, line 22, delete "or pseudonymous data"

26 AMENDMENT NO. 34

27 On page 18, delete lines 12 through 16 in their entirety

28 AMENDMENT NO. 35

29 On page 18, line 17, change "C." to "B." and delete "pseudonymous data or"

1 AMENDMENT NO. 36

2 On page 18, delete "pseudonymous"

3 AMENDMENT NO. 37

4 On page 18, at the beginning of line 20, delete "data or"

5 AMENDMENT NO. 38

6 On page 22, between lines 21 and 22, insert the following:

7 "§1395. Data protection assessments

8 A. A controller shall not conduct processing that presents a heightened risk  
9 of harm to a consumer without conducting and documenting a data protection  
10 assessment of each of its processing activities that involve personal data acquired on  
11 or after the effective date of this Chapter that present a heightened risk of harm to a  
12 consumer.

13 B. For purposes of this Section, "processing that presents a heightened risk  
14 of harm to a consumer" includes all of the following:

15 (1) Processing personal data for purposes of targeted advertising or for  
16 profiling if the profiling presents a reasonably foreseeable risk of any of the  
17 following:

18 (a) Unfair or deceptive treatment of consumers.

19 (b) Unlawful disparate impact on consumers.

20 (c) Financial or physical injury to consumers.

21 (d) An intrusion, physical or otherwise, upon the solitude or seclusion, or the  
22 private affairs or concerns of consumers, if the intrusion would be offensive to a  
23 reasonable person.

24 (e) Other substantial injury to consumers.

25 (2) Selling personal data.

26 (3) Processing sensitive data.

27 C. Data protection assessments shall identify and weigh the benefits that may  
28 flow, directly and indirectly, from the processing to the controller, the consumer,  
29 other stakeholders, and the public against the potential risks to the rights of the  
30 consumer associated with the processing, as mitigated by safeguards that the  
31 controller can employ to reduce the risks. The controller shall factor into this  
32 assessment the use of deidentified data and the reasonable expectations of  
33 consumers, as well as the context of the processing and the relationship between the  
34 controller and the consumer whose personal data will be processed.

35 D. A controller shall make the data protection assessment available to the  
36 attorney general upon request. The attorney general may evaluate the data protection  
37 assessment for compliance with the duties provided for in this Chapter. Data  
38 protection assessments are confidential and exempt from public inspection and  
39 copying under the Louisiana Public Records Act as provided in R.S. 44:1 et seq. The  
40 disclosure of a data protection assessment pursuant to a request from the attorney  
41 general pursuant to this Subsection does not constitute a waiver of any  
42 attorney-client privilege or work-product protection that might otherwise exist with  
43 respect to the assessment and any information contained in the assessment.

44 E. A single data protection assessment may address a comparable set of  
45 processing operations that include similar activities.

46 F. Data protection assessment requirements apply to processing activities  
47 created or generated after December 1, 2023."

48 AMENDMENT NO. 39

49 On page 22, change "§1395." to "§1396."

1 AMENDMENT NO. 40

2 On page 23, line 11, change "§1396." to "§1397."

3 AMENDMENT NO. 41

4 On page 23, delete line 25 in its entirety and insert in lieu thereof the following:

5 "Section 2. R.S. 44:4.1(B)(23) is hereby amended and reenacted to read as follows:

6 §4.1. Exceptions

7 \* \* \*

8 B. The legislature further recognizes that there exist exceptions, exemptions,  
9 and limitations to the laws pertaining to public records throughout the revised  
10 statutes and codes of this state. Therefore, the following exceptions, exemptions, and  
11 limitations are hereby continued in effect by incorporation into this Chapter by  
12 citation:

13 \* \* \*

14 (23) R.S. 37:74, 86, 90, 147, 691, 711.10, 763, 763.1, 781, 920.1, 969.1,  
15 1123(E), 1277, 1278, 1285, 1326, 1338.1, 1360.53.1, 1360.104.1, 1395, 1518,  
16 1745.15, 1747, 1806, 2156.1, 2406, 2505.1, 2863.1, 3481, 3507.1

17 \* \* \*

18 Section 3. This Act shall become effective on December 31, 2023."

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.