



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1242

S.P. 447

In Senate, April 7, 2015

### **An Act To Protect Maine Consumers from Medical Identity Theft**

(AFTER DEADLINE)

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator GRATWICK of Penobscot.  
Cosponsored by Representative COOPER of Yarmouth and  
Senators: BREEN of Cumberland, DILL of Penobscot, DUTREMBLE of York, HASKELL of  
Cumberland, McCORMICK of Kennebec, Representatives: MORRISON of South Portland,  
PRESCOTT of Waterboro, TEPLER of Topsham.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** protection of personally identifying data has become important since the  
4 advent of digital record keeping and the Internet, with theft and misuse of the data  
5 occurring at an ever-increasing rate; and

6           **Whereas,** theft and misuse of personally identifying data can lead to invasion of  
7 privacy and financial loss and, in the case of medical identity theft, to possible erroneous  
8 and dangerous medical care; and

9           **Whereas,** residents of the State are presently vulnerable to medical identity theft, as  
10 evinced by the recent data breach at Anthem Blue Cross and Blue Shield, in which  
11 potentially up to 500,000 residents of the State were affected; and

12           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
13 the meaning of the Constitution of Maine and require the following legislation as  
14 immediately necessary for the preservation of the public peace, health and safety; now,  
15 therefore,

16           **Be it enacted by the People of the State of Maine as follows:**

17           **Sec. 1. 24-A MRSA §4320-J** is enacted to read:

18           **§4320-J. Data protection**

19           **1. Data protection.** A carrier shall protect from theft or unauthorized taking the  
20 personal and medical data of an enrollee of the carrier, including:

21           A. Encrypting to standards required by the bureau all medical and personal data of  
22 the enrollee;

23           B. If a database or records of a carrier including information concerning an enrollee's  
24 identity is breached, providing medical identity theft protection with a guarantee of  
25 recompense to standards required by the bureau for 10 years following the breach;

26           C. Aligning all policies and contracts with data protection standards of a medical  
27 identity fraud alliance composed of public and private sector entities that jointly  
28 develop best practices and solutions for fighting medical identity fraud, as approved  
29 by the bureau; and

30           D. Developing and implementing a policy approved by the bureau that ensures strict  
31 adherence to the compliance rules under the federal Health Insurance Portability and  
32 Accountability Act of 1996.

33           **2. Rules.** The bureau may adopt routine technical rules as defined by Title 5, chapter  
34 375, subchapter 2-A to carry out the provisions of this section.

35           **3. Application.** This section applies to all data of an enrollee collected by or in the  
36 possession of a carrier on or after January 1, 2004.

