

Legislation Research on Personal Information Protection in Internet Credit Investigation

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Abstract: With the continuous development of the Internet, the Internet credit investigation system has been developed rapidly, mainly manifested as, the coverage is also expanding, and the number of credit investigation is also increasing. However, due to the lack of relevant institutional guarantee, there are many shortcomings in the Internet credit investigation. Based on this, gradually improving the legislation of personal information protection in Internet credit investigation will help to solve the problems existing in Internet credit investigation, and will help to promote the development of Internet credit investigation.

Keywords: Personal information protection mechanism; Internet credit investigation; Personal information

Since the state opened its personal credit investigation business in 2015, the Internet credit investigation companies represented by Sesame Credit and Kaala credit investigation have been developing and growing. However, while the continuous development and growth of the credit investigation industry, it has also caused a lot of social problems. Among these problems, the most serious is the problem of personal information leakage in the Internet credit investigation. In order to better safeguard the rights and interests of relevant subjects, the legislative work of personal information protection in the Internet credit investigation should be taken attention to.

1. Necessity of personal information protection legislation in Internet credit investigation

1.1 The status of the right subjects is unequal

In the Internet credit investigation, the credit investigation person compared with the credit investigation companies, out of an obvious disadvantage. It is mainly manifested in the following aspects: First, the way to obtain authorization is very formal. In daily life, Internet credit investigation companies often obtain authorization through formal terms, and such authorization is mostly general. Therefore, it is almost impossible for credit investigation to know how their personal information is used and stored. Second, it is based on the "general authorization". The credit investigation person does not effectively authorize it with the Internet credit investigation enterprises. Therefore, the credit investigation person does not have a channel to understand the scope and extent of the information collected by the credit investigation company, and the credit investigation company is essentially profit-seeking.

1.2 Unreasonable burden of proof

Internet credit violations of personal information cases occur from time to time, and in the civil code, although personal information has existed as a protective rights and interests, however, the relevant judicial relief channels, in accordance with the principle of "who claims who proof" to define the burden of proof, in the weak position of credit is to bear the burden of proof, and personal information is violated burden of proof has the characteristics of strong professionalism.

1.3 The security of credit investigation data cannot be effectively guaranteed

According to the new technology, the Internet credit investigation enterprises have the advanced, rapid and accurate methods that are difficult to compete with the traditional credit investigation mode in the credit investigation aspect, but they face unprecedented challenges in the security. First, the openness of the Internet has increased the risk of credit investigation data leakage. In recent years, a number of Internet enterprises have been frequently hacked and personal information leakage and other problems. Therefore, it can be seen that the security level of Internet companies is not directly proportional to the personal information they have. Second, Internet credit investigation companies do not pay attention to data security protection measures. At present, there are no relevant laws and regulations to make specific provisions on the security security measures of Internet credit investigation enterprises. Therefore, the good and bad security measures of personal information are uneven. Third, once Internet credit investigation companies infringe, it is difficult for credit investigation data disclosure responsibility to define. When information leakage occurs in Internet information investigation enterprises, it is difficult for credit investigation objects to determine the subject responsible for information disclosure.

2. The international situation of personal information protection legislation in the Internet credit investigation

2.1 Strengthen and improve the interpretation and implementation rules of the Personal Information

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Protection Law

Today, most of the world strengthen their interpretation of the law based on existing laws. For example, the Key Concepts Advisory Guide of the Personal Data Protection Law released by the Personal Data Protection Law of the new respondent and the amendment to the Privacy Law issued by the Australian respondent. These laws to some extent clarify the definition of personal information and the specific policies to protect personal information.

2.2 Strengthen the establishment of personal information protection rules for specific obligations

Establish personal information protection rules for a specific business. For example, the “Cloud Service Information Security Management Guide”, “Interest Handling Measures for Credit Credit (draft)” and the “Cloud Computing Data Protection Guide” issued by France put forward comprehensive discussions and norms for the security management of cloud computing respectively.

2.3 Strengthen and clarify the cross-border information flow rules

The development of Internet application has made the speed and number of cross-border flow of data rapidly expanded, etc. All countries have clarified the rules of cross-border flow of information from the perspective of personal information protection. For example, Singapore’s Personal Data Credit Investigation Protection Act, the Australian amendment to the Privacy Act, and the EU Personal Credit Investigation Person Data Protection Directive all make special provisions on the cross-border transfer of personal data.

3. Strengthen the legislation on personal information in the Internet credit investigation

3.1 Clear ownership of the processed personal information

The Personal Information Protection Law has stipulated the definition of personal information, but did not involve “processed personal information” content, which leads to “personal information” and “processed personal information” blurred boundary, at the same time, the credit investigation has no channel to understand about how information is processed, where was used, how to deal with after use and other basic situation, these led to, in the encounter of personal information was violated, do not know to collect evidence ^[1]. Therefore, the clear “ownership of the handled information” helps to play the guiding role of the law, so that the credit investigation person can establish the awareness of protecting personal information in their daily life.

3.2 Clarifying the compensation mechanism for the infringement of personal information

The Personal Information Protection Law only stipulates the macro level of personal information, and does not specify how personal information should be protected judicially. At the same time, the content of the protection of personal information is scattered in the civil law, criminal law, administrative law and other departmental laws, and the application of various departments inevitably appear contradictions. Therefore, when the information of the credit investigation is leaked, the relevant departments inevitably shirk each other. And personal information as a basic personal rights and interests, should be legislative and judicial attention, therefore, we should clarify the Internet credit personal information should be through civil and criminal punishment to individual relief, specifically, should be clear related burden of proof and responsibility to determine the problem, these will help credit to protect their legitimate rights and interests, so as to promote social fairness and justice.

3.3 Clarify the new requirements brought about by new technologies

The continuous development of information technology has given birth to Internet credit investigation. In order to solve the new problems of Internet credit investigation, it is also promoting the development of information technology. Therefore, we cannot view the legislative problems related to Internet credit investigation from a static perspective. In the legislation of personal information protection in the Internet credit investigation, it should pay attention to the development of relevant information technology at home and abroad and strengthen the communication with technical personnel, so as to make the relevant legislative achievements have a certain forward-looking ^[2]. Good legislation on personal information protection in the Internet credit investigation helps to promote the development of the Internet credit investigation, and the continuous development of the credit investigation system is helpful to create an honest and trustworthy social atmosphere.

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