

DATA BREACH SECURITY AND PRIVACY STATE LEGISLATION



Updated October 25, 2019

\* *Overview.* The below survey attempts to offer a comprehensive look at the state legislative activity on issues related to data breach notification ("DBN") and privacy. Given the breadth of these issues (and the array of terms used to describe them), other legislation introduced in the states may also address them.

\* *Legend.* The bills included below are color coded based on their status throughout the legislative session:

- **BLUE** - Legislation Enacted or at the Governor's Desk
- **YELLOW** - Legislation Moving Through Either Chamber
- **GREY** - Legislature Has Adjourned or the Legislation Has Otherwise Failed

More specific procedural updates are available through the links provided, but will not be reflected in the chart.

\* The descriptions of the legislation provided offer a broad overview. If there is a particular bill for which you would like additional information, please let us know.

| State         | Legislation  | Classification           | Status  | Overview   |
|---------------|--|--------------------------|---|--|
| Alabama       | <a href="#">HB 101/SB 54</a>   | NAIC Model Law 668       | HB 101: Passed House; referred to Senate<br>SB 54: <b>Enacted</b> | Incorporates provisions of the NAIC model act.   |
| Arkansas      | <a href="#">HB 1943</a>  | DBN                      | <b>Enacted</b>  | Amends existing data breach notification requirements.   |
| Arizona       | <a href="#">SB 1113</a>  | Data Privacy             | <b>Enacted</b>  | Eliminates requirements to provide notice of information practices if the insurer has not changed policies and practices related to disclosing personal information since last notified.   |
| California    | <a href="#">AB 1242</a>  | NAIC Model Law 668 Misc. | Introduced<br><b>ADJOURNED</b>                                    | Creates an Office of Cybersecurity; discusses responses related to cybersecurity event; increases state data breach coordination, etc..  |
| California    | <a href="#">AB 1130</a>  | DBN                      | <b>Enacted</b>  | Amends existing data breach notification requirements to include breaches involving biometric data, instructions on how to notify other entities, among other things.  |
| California    | <a href="#">AB 1035</a>  | DBN                      | Introduced<br><b>ADJOURNED</b>                                    | Requires notification within 72 hours (as compared to "the most expedient time possible without unreasonable delay").  |
| California    | <a href="#">AB 929</a>   | Data Privacy             | <b>Enacted</b>  | Requires the board governing California's Health Benefits Exchange (Covered California), to make public on the Exchange's website, plan-specific data on cost reduction efforts, quality improvements, and disparity reductions, among other things.   |
| Connecticut   | <a href="#">SB 903/Included in Governor's budget<br/>Public Act 19-117 (H. 7424)</a> | NAIC Model Law 668       | <b>Enacted</b>  | Incorporates provisions of the NAIC model; revises standards governing insurance data and information security; notices and investigations following cybersecurity events.   |
| Delaware      | <a href="#">HB 174</a>   | NAIC Model Law 668       | <b>Enacted</b>  | Incorporates provisions of the NAIC model act .  |
| Florida       | <a href="#">SB 7008</a>  | DBN Misc.                | Introduced<br><b>ADJOURNED</b>                                    | Establishes a public record exemption to keep personal information related to a data breach confidential, among other things.  |
| Hawaii        | <a href="#">SB 418</a>   | Data Privacy             | Introduced<br><b>ADJOURNED</b>                                    | Comprehensively addresses companies' use of consumer personal information (mirrors the California Consumer Privacy Act).   |
| Hawaii        | <a href="#">HB 273</a>   | DBN                      | <b>Enacted</b>  | Exempts certain insurers from providing annual privacy notices to customers under group policies if the insurer provides nonpublic financial information to certain nonaffiliated third parties or where the insurer's policies and practices relating to disclosure of nonpublic personal information remain unchanged. |
| Illinois      | <a href="#">SB 1624</a>  | Data Privacy             | <b>Enacted</b>  | Requires data collectors, when a data breach affected more than 100 state residents, to notify and provide the Attorney General with certain information (i.e., description of the nature of the security breach, etc.).   |
| Illinois      | <a href="#">HB 3200</a>  | DBN                      | Introduced  | Amends existing data breach notification requirements (e.g., requires notification within 5 days).   |
| Illinois      | <a href="#">HB 2784</a>  | DBN                      | Introduced  | Amends existing data breach notification requirements (e.g., defines "consumer marketing information" and other terms).  |
| Illinois      | <a href="#">HB 2829</a>  | Miscellaneous            | Introduced  | Enacts the Financial Institution Cybersecurity Act; imposes certain cybersecurity requirements on persons/entities operating under the Illinois Insurance Code (among others); requires implementation of a cybersecurity program/written policies to protect information systems.                                       |
| Indiana       | <a href="#">HB 1588</a>  | Miscellaneous            | <b>Enacted</b>  | Urges the legislative council to assign an interim study committee on the topic of insurance data security (i.e., insurer response to adverse cybersecurity events, etc.).   |
| Iowa          | <a href="#">HSB 14/SB 1071</a>   | DBN                      | Introduced<br><b>ADJOURNED</b>                                    | Amends existing data breach notification requirements.   |
| Maryland      | <a href="#">SB 693/HB 1154</a>   | DBN                      | <b>Enacted</b>  | Amends existing data breach notification requirements.   |
| Maryland      | <a href="#">SB 30</a>  | DBN                      | <b>Enacted</b>  | Requires insurers, under certain circumstances, to notify the Maryland Insurance Commissioner if a breach has occurred, among other things.  |
| Maryland      | <a href="#">SB 786/HB 1127</a>   | DBN                      | Introduced<br><b>ADJOURNED</b>                                    | Amends existing data breach notification requirements.   |
| Massachusetts | <a href="#">S 100</a>  | DBN                      | Introduced  | Amends existing data breach notification requirements.   |

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| Massachusetts  | <a href="#">S 180</a>           | DBN                | Introduced                       | Amends existing data breach notification requirements.   |
| Massachusetts  | <a href="#">S 120</a>           | Data Privacy       | Introduced                       | Requires businesses to notify a consumer, at or before collection, of the categories of personal information that will be collected.   |
| Massachusetts  | <a href="#">H 223</a>           | DBN                | Introduced                       | Amends existing data breach notification requirements.   |
| Massachusetts  | <a href="#">S 98</a>            | DBN                | Introduced                       | Amends existing data breach notification requirements for biometric information.   |
| Michigan       | <a href="#">HB 4187</a>         | DBN                | Introduced                       | Enacts a data breach notification framework.   |
| Minnesota      | <a href="#">HB 1377/SB 2063</a> | DBN                | Introduced                       | Modifies the definition of data security breach.   |
| Minnesota      | <a href="#">HB 1376</a>         | DBN                | Introduced                       | Amends existing data breach notification requirements.   |
| Mississippi    | <a href="#">SB 2831</a>         | NAIC Model Law 668 | <b>Enacted</b>                   | Adopts the majority of the NAIC model act with certain differences ( <i>House version died in Committee</i> ).   |
| Mississippi    | <a href="#">H 911</a>           | NAIC Model Law 668 | Introduced                       | Incorporates provisions of the NAIC model act.   |
| Nevada         | <a href="#">SB 21</a>           | NAIC Model Law 668 | Passed Senate                    | Adopts the NAIC model act.   |
| New Hampshire  | <a href="#">SB 194</a>          | NAIC Model Law 668 | <b>ADJOURNED</b>                 |  |
| New Jersey     | <a href="#">AB 4640</a>         | Data Privacy       | Introduced                       | Adopts the NAIC model act (with some amendments).  |
| New Jersey     | <a href="#">SB 52</a>           | DBN                | <b>Enacted</b>                   | Comprehensively addresses companies' use of consumer personal information (mirrors the California Consumer Privacy Act).   |
| New Jersey     | <a href="#">SB 3836</a>         | Data Privacy       | Introduced                       | Amends existing data breach notification requirements.   |
| New Jersey     | <a href="#">AB 3541/SB 1524</a> | DBN                | Introduced                       | Requires health insurance carriers to adhere to certain practices to protect health information related to sensitive services.   |
| New Jersey     | <a href="#">AB 1360</a>         | DBN                | Introduced                       | Amends existing data breach notification requirements (e.g., requires notification within 5 days).   |
| New Mexico     | <a href="#">SB 176</a>          | DBN/Data Privacy   | Introduced                       | Incorporates new data breach notification requirements (e.g., requires entities to provide a customer with access to independent credit reports for a period of six months following notification of a breach of security).  |
| New York       | <a href="#">AB 5635</a>         | DBN                | <b>ADJOURNED</b>                 | Comprehensively addresses companies' use of consumer personal information (mirrors the California Consumer Privacy Act).   |
| New York       | <a href="#">AB 465</a>          | DBN                | Introduced                       | Amends existing data breach notification requirements.   |
| New York       | <a href="#">SB 2540</a>         | DBN                | Introduced                       | Enacts the "Personal Information Protection Act".  |
| New York       | <a href="#">AB 3001</a>         | DBN                | Introduced                       | Amends existing data breach notification requirements (e.g., requires notification within 15 days)   |
| New York       | <a href="#">SB 5575</a>         | DBN                | <b>Enacted</b>                   | Expands the definition of private information (the disclosure of which will trigger a data breach); and personal information (now includes birthdates, home addresses, phone numbers, etc.), among other things.   |
| New York       | <a href="#">AB 1387</a>         | DBN                | Introduced                       | Amends existing data breach notification requirements (e.g., exempts certain situations for data breach notifications).  |
| New York       | <a href="#">H 904</a>           | DBN                | Introduced                       | Amends existing data breach notification requirements (e.g., requires notification within 5 days).   |
| New York       | <a href="#">AB 8526</a>         | Data Privacy       | Introduced                       | Amends existing data breach notification (e.g., requires notification within 30 days).   |
| North Dakota   | <a href="#">HB 1138</a>         | Data Privacy       | Introduced                       | Requires companies to disclose their methods of de-identifying personal information and amends existing data sharing limitations.  |
| Oklahoma       | <a href="#">S 288</a>           | DBN                | <b>Enacted</b>                   | Eliminates the requirement that insurers provide an annual privacy notice if the insurer complies with nonaffiliated third-party rules adopted by the commissioner and has not changed privacy policies and practices since the most recent notice sent to consumers.            |
| Ohio           |                                 | NAIC Model Law 668 | Introduced                       | Requires immediate notification and allows monetary penalties for failure to disclose.   |
| Oregon         | <a href="#">SB 684</a>          | DBN                | <b>ADJOURNED</b>                 | Codifies provisions of the NAIC model law.   |
| Oregon         | <a href="#">S 703</a>           | Data Privacy       | Introduced                       | Amends existing data breach notification requirements.   |
| Pennsylvania   | <a href="#">HB 1010</a>         | DBN                | <b>ADJOURNED</b>                 | Prohibits commercial sale of health information without the authorization of the individual.   |
| Pennsylvania   | <a href="#">SB 308</a>          | DBN                | Introduced                       | Enacts a data breach notification framework.   |
| Pennsylvania   | <a href="#">HB 245</a>          | DBN                | Introduced                       | Amends existing data breach notification requirements.   |
| Pennsylvania   | <a href="#">HB 1181</a>         | DBN                | Introduced                       | Amends existing data breach notification (e.g., requires notification within 30 days).   |
| Rhode Island   | <a href="#">S 234/ H 5930</a>   | Data Privacy       | Introduced                       | Amends existing data breach notification requirements (e.g., requires notification within 45 days).  |
| South Carolina | <a href="#">SB 360</a>          | NAIC Model Law 668 | <b>ADJOURNED</b>                 | Comprehensively addresses companies' use of consumer personal information.   |
| Texas          | <a href="#">HB 4390</a>         | DBN                | <b>Enacted</b>                   | Applies the NAIC model to captive insurance companies, among other things.   |
| Texas          | <a href="#">SB 64</a>           | DBN                | <b>Enacted</b>                   | Addresses personal identifying information processed by businesses (appears to include some provisions from CA consumer privacy act); adds biometric data to the definition of personally identifying information's; amends DBN requirements and exemptions, among other things. |
| Vermont        | <a href="#">SB 110</a>          | DBN                | Passed Senate; referred to House | Amends existing data breach notification requirements (e.g., requires notification within 10 days).  |
| Virginia       | <a href="#">HB 2396</a>         | DBN                | <b>Enacted</b>                   | Amends existing data breach notification requirements.   |
| Washington     | <a href="#">SB 5376</a>         | Data Privacy       | Passed Senate; referred to House | Amends existing data breach notification requirements.   |
|                |                                 |                    |                                  | Comprehensively addresses companies' use of consumer personal information (mirrors the California Consumer Privacy Act).   |

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| Washington | <a href="#">SB 5064/HB 1071</a> | DBN | <u>SB 5064</u> : Senate Rules Committee ("X-File")<br><u>HB 1071</u> : <b>Enacted</b> | Amends existing data breach notification requirements. |
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