

New U.S. State Data Protection Laws Enforceable in 2020 and 2021

The legislative sessions for U.S. states in 2019 produced an unprecedented number of new or updated data protection statutes and regulations. The same was not true for the legislative sessions of 2020, however, with only one significant statute appearing – the California Privacy Rights Act of 2020 (CPRA), and even this did not come from a legislature but rather was a voter initiative. This guide summarizes these new laws.

Three aspects of data protection that are typical of modern laws include: (1) expanded definitions of personal information; (2) updates to breach notification mandates; and (3) requirements for improved administrative and technical controls. All three of these are present in all or nearly all of the laws resulting from the 2019 legislative session.

In contrast, the CPRA's primary focus is on adding new rights to consumers with respect to their personal information and mandates on businesses in honoring those rights, as well as restrictions on the ability to transfer personal information to third parties. The new statute, which both amends and builds upon the California Consumer Privacy Act of 2018 (CCPA), is perhaps most noteworthy for its designation of multiple data types as "sensitive," and thus meriting extra protection.

Did we miss something? Do you have comments or questions about this document? Send them to: data.protection@spirion.com

Name of State Law	In Effect	Applies to	Enforced by	Defines personal Info	Creates a privacy review body	DATA PROTECTION REQUIREMENTS			BREACH NOTIFICATION REQUIREMENTS			3RD-PARTY SERVICE PROVIDER REQUIREMENTS	
						Data protection program or implm. of controls	Destruction or safe disposal of personal info	Regulates sale of personal info/data	Time to notify; must notify AG, CRA, other	Risk of harm test for breach notification	Written incident response and/or plan for notification	Screening of 3rd-party service providers	Data protection program for 3rd-party SPs
ARKANSAS H.B. 1943	JUL 23 2019	BIZ	AG	✓				45 DAYS' AG	✓	✓			
CALIFORNIA A.B. 874	JAN 1 2020	BIZ	AG	✓									
CALIFORNIA A.B. 1130	JAN 1 2020	BIZ, GOV	AG	✓				✓ ¹					
CALIFORNIA A.B. 1202 Data Broker Registration Statute	JAN 1 2020	BIZ	AG	✓			✓						
CALIFORNIA A.B. 713	SEP 25 2020 ¹¹	BIZ	AG			✓	✓						
CALIFORNIA PROP. 24 The California Privacy Rights Act of 2020	JAN 1 2023 ¹²	BIZ	CPPA, PRoA, AG	✓		✓	✓				✓ ¹³	✓ ¹⁴	

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CALIFORNIA A.B. 375, S.B. 1125 The California Consumer Privacy Act of 2018	JAN 1 2020	BIZ	CPPA, PRoA, AG	✓		✓		✓					
CONNECTICUT S.B. 1108	JUL 9 2020				✓								
CONNECTICUT H.B 7424 The Insurance Data Security Law	OCT 1 2019	BIZ ²	OTHER	✓		✓	✓		3 DAYS, WUD ³ OTHER	✓	✓	✓	✓
DELAWARE H.B. 174 The Insurance Data Security Law	OCT 1 2019	BIZ ²	OTHER	✓		✓	✓		3 DAYS, WUD ³ OTHER	✓	✓	✓	✓
HAWAII H.C.R. 225	APR 30 2019				✓				WUD AG		✓		
INDIANA H.B. 1372	JUL 1 2020	BIZ ²	OTHER	✓		✓	✓		3 DAYS, WUD, OTHER		✓	✓	✓
ILLINOIS S.B. 1624	JAN 1 2020	BIZ	AG						WUD ^{1,3} AG		✓ ⁹		
ILLINOIS H.B. 2189	JAN 1 2020	BIZ	OTHER				✓						
LOUISIANA H.B. 614 The Insurance Data Security Law	AUG 1 2020	BIZ ²	OTHER	✓		✓	✓		3 DAYS, WUD ³		✓	✓	✓
LOUISIANA H.R. 249	JUN 4 2019	BIZ			✓								
MAINE L.D. 946	JUL 1 2020	BIZ ⁴	?	✓		✓		✓					
MARYLAND S.B. 30	OCT 1 2019	BIZ ²	OTHER						✓ ¹	✓			
MARYLAND S.B. 693, H.B. 1154	OCT 1 2019	BIZ	AG						45 DAYS, WUD ^{1,3} AG		✓		
MASSACHUSETTS H. 4806	APR 11 2019	BIZ, GOV, NP	AG, PRoA ⁸	✓					WUD ^{1,3} AG, CRA, OTHER	✓	✓		
MICHIGAN H.B. 6491 The Insurance Data Security Law	JAN 1 2021	BIZ ²	AG, OTHER	✓		✓	✓		10 DAYS, WUD ³ OTHER	✓	✓	✓	✓
MISSISSIPPI S.B. 2831 The Insurance Data Security Law	JUL 1 2019	BIZ ²	OTHER	✓		✓	✓		3 DAYS, WUD ³ OTHER	✓	✓	✓	✓
NEVADA S.B. 220	OCT 1 2019	BIZ ⁴	AG			✓		✓					
NEW HAMPSHIRE S.B. 194 The Insurance Data Security Law	JAN 1 2021	BIZ ²	OTHER	✓		✓	✓		3 DAYS, WUD ³ OTHER	✓	✓	✓	✓

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NEW JERSEY S.B. 52	SEP 1 2019	BIZ ⁶ , NP	OTHER	✓					WUD ^{1,3} OTHER		✓		
NEW YORK S. 5575-B The SHIELD Act	MAR 21 2020	BIZ, NP ⁵	AG, OTHER	✓		✓	✓		WUD ^{1,3} AG, CRA, OTHER	✓ ¹⁰			
NORTH DAKOTA H.B. 1485	MAR 28 2019				✓				WUD, OTHER		✓		
OHIO S.B. 273 The Insurance Data Security Law	MAR 20 2019	BIZ ²	OTHER	✓		✓	✓		3 DAYS, WUD ³ OTHER	✓	✓	✓	✓
OREGON H.B. 2395	JAN 1 2020	BIZ ⁷	AG	✓		✓							
OREGON S.B. 684	JAN 1 2020	BIZ	OTHER	✓		✓			10 DAYS, WUD ^{1,3} AG, OTHER		✓		
TEXAS H.B. 4390	JAN 1 2020	BIZ	AG		✓				60 DAYS, WUD ³ , AG		✓		
UTAH S.B. 193	MAY 4 2019	BIZ, NP ⁵	AG	✓		✓	✓		WUD ^{1,3} AG	✓	✓		
VIRGINIA H.B. 1334 The Insurance Data Security Act	JUL 1 2020	BIZ ²	OTHER	✓		✓	✓		3 DAYS, WUD, OTHER		✓	✓	✓
VIRGINIA H.B. 2396	JUL 1 2019	BIZ, GOV, NP	AG	✓					WUD ^{1,3} AG, CRA		✓		
WASHINGTON STATE H.B. 1071	MAR 1 2020	BIZ	AG, PRoA	✓					30 DAYS, WUD ^{1,3} AG		✓		

BIZ – Business
GOV – Government
NP – Non-Profit
AG – Attorney General

CRA – Consumer Reporting Agency
PRoA – Private Right of Action
WUD – Without Undue Delay
CPPA – California Privacy Protection Agency

¹ Amends existing breach notification statute or regulation
² Limited to insurers; see the NAIC Insurance Data Security Model Law #668
³ “Without undue delay,” “as soon as practicable,” or the functional equivalent thereof
⁴ Limited to internet service providers (ISPs)
⁵ Apparently applies to non-profits
⁶ Applies to chartered financial institutions
⁷ Limited to manufacturers of internet-connected devices

⁸ The statute implies a private right of action
⁹ The statute implies the need for a written breach notification plan
¹⁰ Only in the event of an “inadvertent” disclosure
¹¹ Restrictions on sale of personal information enforceable on January 1, 2021
¹² “Look back” date for in-scope data is January 1, 2022
¹³ Implied by the statute
¹⁴ Limited applicability