**Data Breach Notification Laws**

This document is just an overview of the requirements, for different states, that service providers and other entities need to fulfill in order to comply with the state law in the event of a data incident/breach.

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| Alabama | <https://privacy.huntonwilliamsblogs.com/wp-content/uploads/sites/18/2018/04/Alabama-Data-Breach-Notification-Act-of-2018.pdf> |
| Alaska |  |
| Arizona | <https://www.azleg.gov/legtext/53leg/2r/bills/hb2154p.pdf> |
| Arkansas |  |
| California | <https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB1121> |
| Colorado |  |
| Connecticut |  |
| Delaware |  |
| Florida |  |
| Georgia |  |
| Hawaii |  |
| Idaho |  |
| Illinois | <http://www.ilga.gov/legislation/fulltext.asp?DocName=10100SB1624lv&SessionID=108&GA=101&DocTypeID=SB&DocNum=1624&print=true> |
| Indiana |  |
| Iowa |  |
| Kansas |  |
| Kentucky |  |
| Louisiana |  |
| Maine | <http://www.mainelegislature.org/legis/bills/bills_129th/billtexts/SP027501.asp> |
| Maryland | <http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=HB1154&stab=01&pid=billpage&tab=subject3&ys=2019RS> |
| Massachusetts | <https://malegislature.gov/Bills/190/H4806> |
| Michigan |  |
| Minnesota |  |
| Mississippi |  |
| Missouri |  |
| Montana |  |
| Nebraska |  |
| Nevada |  |
| New Hampshire |  |
| New Jersey | <https://www.njleg.state.nj.us/2018/Bills/S0500/52_R1.PDF> |
| New Mexico |  |
| New York | <https://legislation.nysenate.gov/pdf/bills/2019/S5575B> |
| North Carolina |  |
| North Dakota |  |
| Ohio |  |
| Oklahoma |  |
| Oregon | <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/SB684> |
| Pennsylvania |  |
| Rhode Island |  |
| South Carolina |  |
| South Dakota |  |
| Tennessee |  |
| Texas | <https://capitol.texas.gov/tlodocs/86R/billtext/html/HB04390H.htm> |
| Utah |  |
| Vermont |  |
| Virginia |  |
| Washington | <http://lawfilesext.leg.wa.gov/biennium/2019-20/Pdf/Amendments/Senate/1071-S%20AMS%20WM%20S3925.1.pdf> |
| West Virginia |  |
| Wisconsin |  |
| Wyoming |  |

1. ***Which states modified its laws in 2019?***
   1. During the calendar year 2019[[1]](#footnote-1)
      1. **Arkansas:** Passed House Bill 1943 which amends and revises the Personal Information Protection Act (part of Arkansas state law).[[2]](#footnote-2)
         1. HB 1943 revises Arkansas Code section 4-110-103(7) to include biometric data in the definition of personal information.
            1. (Biometric data is data generated by automatic measurements on an individual’s biological characteristics such as fingerprints, retinal or iris scans, facial recognition, DNA and other identifiers including behavioral identifiers)[[3]](#footnote-3)
         2. So biometric data is considered to be personal information. Additionally the bill (HB 1943) amends Arkansas Code section 4-110-105(b) which requires that in the event of a data breach involving more than 1,000 individuals a notification breach must also be made to the attorney general.
         3. Breached entities are now required to (after a data breach has been detected) retain a copy of the written determination of the data breach and of supporting documentation for five years. Furthermore the entity must provide documentation within 30 days of an attorney general’s written request.
         4. House Bill 1943 became law on April 15, 2019 and became effective on July 23, 2019.
      2. **Illinois:** On May 27, 2019 the Illinois General Assembly passed amendments to the Illinois Personal Information Protection Act’s section on data notifications.
         1. In addition to obligations to notify the affected individuals, data collectors are also required to notify the Illinois attorney general if the data breach involves personal information from over 500 Illinois residents.
            1. Data collectors must notify the Office of the Attorney General (as in Arkansas) in the most expedient time possible and without unreasonable delay, but no later than when notice is given to the affected individuals.
         2. The amendment also grants the Attorney General the authority to publish the name of the data collector, the types of personal information compromised and other relevant information.
         3. The aim of the amendment is to ensure timely notification of the breach to the residents of Illinois.[[4]](#footnote-4)
      3. **Maryland:** On April 30, 2019 Maryland passed amendments to the security breach notification requirements of Maryland’s Personal Information Protection Act, which became effective on October 1, 2019.
         1. Specifically, this one is for businesses which maintain computerized personal data but do not own it.
            1. These businesses (any business which maintains computerized data) will now be required to perform a prompt and reasonable investigation to identify the risk of harm to the compromised individuals.
            2. And they are required to notify the owner of the personal data no later than 45 days after the discovery of the breach.[[5]](#footnote-5)
         2. And businesses maintaining the data cannot charge its owner a fee for providing the necessary information (necessary to make the required notifications).
      4. **New Jersey:** May 10, 2019: New Jersey Governor Phil Murphy signed into law a bill that amends New Jersey’s data breach notification law.
         1. Businesses subject to the law must notify New Jersey residents of a breach of security affecting a resident’s user name, email password or any other account holder identifying information, in combination with any password or security question and answer that would permit access to an online account.[[6]](#footnote-6)
         2. Basically, the bill adds account holder identifying information (including first and last name) in combination with any password or security question and answer that would permit access to an online account to the list of breaches which require disclosure.
         3. Essentially expanding the notion of personal information to include online account information to the preexisting list (Social Security number, driver’s license number, credit or debit card number in combination with any required security code, access code or password permitting access to the related individual’s financial account). The bill itself requires all entities compiling or maintaining computerized records that include information requiring access to an online account to disclose breaches of security.[[7]](#footnote-7)
      5. **Oregon:** On May 24, 2019 Governor Kate Brown signed into law amendments to the Oregon Consumer Identity Theft Protection Act which distinguish between a “covered entity” and a “vendor”; similarly to the “controller” and “processor” distinction in the GDPR

Additional resources to verify these findings:

[**https://www.dataprotectionreport.com/2019/06/nine-states-pass-new-and-expanded-data-breach-notification-laws/**](https://www.dataprotectionreport.com/2019/06/nine-states-pass-new-and-expanded-data-breach-notification-laws/) **(same results as the previous link which is** [**https://www.jdsupra.com/legalnews/year-to-date-changes-to-state-data-21648/**](https://www.jdsupra.com/legalnews/year-to-date-changes-to-state-data-21648/)**). Also** [**http://www.ncsl.org/research/telecommunications-and-information-technology/2018-security-breach-legislation.aspx**](http://www.ncsl.org/research/telecommunications-and-information-technology/2018-security-breach-legislation.aspx) **.** Furthermore, <https://legislation.nysenate.gov/pdf/bills/2019/S5575B> demonstrates that New York has an amendment which is headed to the governor’s desk (<https://www.jdsupra.com/legalnews/updates-to-new-york-state-s-breach-28999/>).

[**https://info.digitalguardian.com/rs/768-OQW-145/images/the-definitive-guide-to-us-state-data-breach-laws.pdf**](https://info.digitalguardian.com/rs/768-OQW-145/images/the-definitive-guide-to-us-state-data-breach-laws.pdf) **“**The Definitive Guide to U.S. State Data Breach Laws”

<https://www.huntonprivacyblog.com/2018/04/03/alabama-becomes-final-state-enact-data-breach-notification-law/>

<https://www.consumerfinancemonitor.com/2018/04/19/arizona-strengthens-and-expands-data-breach-notification-law/>

<https://www.azleg.gov/legtext/53leg/2r/bills/hb2154p.pdf>

<https://privacylaw.proskauer.com/2018/09/articles/california/california-legislature-passes-amendments-to-the-california-consumer-privacy-act/>

<https://www.huntonprivacyblog.com/2018/06/14/colorado-amends-data-breach-notification-law-enacts-data-security-requirements/>

***6. Reporting threshold: number of individuals***

<https://www.itgovernanceusa.com/data-breach-notification-laws>

<https://privacylaw.proskauer.com/uploads/file/Arkansas%204-110-%20101%20to%20108.pdf>

<http://arc-sos.state.al.us/PAC/SOSACPDF.001/A0012674.PDF>

“Section 6. (a) If the number of individuals a covered entity is required to notify under Section 5 exceeds 1,000, the entity shall provide written notice of the breach to the Attorney General as expeditiously as possible and without unreasonable delay.”

<https://www.bakerlaw.com/files/Uploads/Documents/Data%20Breach%20documents/Data_Breach_Charts.pdf>

See “States That Require a Risk-of-Harm Analysis in Determining When Notification Is Triggered”

See “States That Require Notice to Attorney General or State Agency”

See “States That Require Notification Within a Specific Time Frame”

<https://www.perkinscoie.com/en/news-insights/security-breach-notification-chart-alaska.html>

<https://www.bakerlaw.com/files/Uploads/Documents/Data%20Breach%20documents/State_Data_Breach_Statute_Form.pdf>

Look at definitions and statutes (definition of PI). Includes access versus acquisition, date of birth as PI, Online or financial accounts as PI, and whether third parties need to notify their consumers or not

<https://www.perkinscoie.com/en/news-insights/security-breach-notification-chart-arizona.html>

<https://www.foley.com/en/insights/publications/2019/01/state-data-breach-notification-laws>

It looks like (<https://www.informationbytes.com/2018/10/pii-breach-notification-statutes-rules-keep-changing/>) North Dakota is indeed the only state which considers birth date to be personal information. This website also provides information about whether online accounts are considered to be PI.

Another good resource for seeing whether personal information covers financial accounts or covers online accounts is <https://www.dwt.com/gcp/state-data-breach-statutes> (map) and <https://www.bakerlaw.com/BreachNotificationLawMap> (map, good for determining whether harm analysis is allowed or not as well as whether private cause of action is allowed\*\*\*)

Also <https://www.americanbar.org/news/abanews/publications/youraba/2016/may-2016/state-data-breach-notification-laws-just-got-crazier/> see “And Tennessee is one of 15 states that specifically provides for a private cause of action where the data breach notification statutes are not complied with.”

<https://www.perkinscoie.com/en/news-insights/security-breach-notification-chart-alabama.html>

This website is useful for the purpose of determining whether service providers (third parties) need to notify their clients immediately upon the discovery of a data breach.

<https://www.jdsupra.com/legalnews/arizona-strengthens-data-breach-42989/>

1. <https://www.jdsupra.com/legalnews/year-to-date-changes-to-state-data-21648/> [↑](#footnote-ref-1)
2. <https://blogs.claconnect.com/residentialmortgage/arkansas-amends-its-personal-information-protection-act/> [↑](#footnote-ref-2)
3. <https://www.csoonline.com/article/3339565/what-is-biometrics-and-why-collecting-biometric-data-is-risky.html> [↑](#footnote-ref-3)
4. <https://www.huntonprivacyblog.com/2019/06/04/illinois-general-assembly-approves-breach-notification-amendment-to-personal-information-protection-act/> [↑](#footnote-ref-4)
5. <https://www.jdsupra.com/legalnews/maryland-privacy-act-amendments-impact-16436/> [↑](#footnote-ref-5)
6. <https://www.huntonprivacyblog.com/2019/05/17/new-jersey-amends-data-breach-law-to-include-online-account-information/> [↑](#footnote-ref-6)
7. <https://www.njleg.state.nj.us/2018/Bills/S0500/52_S1.PDF> [↑](#footnote-ref-7)