

DATA SECURITY

(AND A FEW OTHER THINGS)

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DATA BREACH NOTIFICATION LAW

- Personal Information Protection Act (or PIPA)
- Regulates companies and other organizations that handle, collect, disseminate personal information.
 - This includes first name or first initial and last name, social security number, driver's license, account number or credit card number, medical information, health insurance information, or biometric data.
- Businesses must implement and maintain reasonable security measures to protect this data from unauthorized access or use.
- Contractors must maintain reasonable security measures too.

DATA BREACH NOTIFICATION LAW

- Breach occurs, now what?
 - Company that owns or licenses the data must notify Illinois residents of a breach **“in the most expedient time possible without unreasonable delay.”**
 - Breach notification must include toll-free numbers, addresses and website of consumer reporting agencies and the FTC.
 - How to obtain fraud alerts and security freezes.
 - HIPAA-regulated entities are exempted but must notify AG.
- **Violation of the Act**
 1. Consumers can sue offending company.
 2. AG can bring action (revocation, restitution, and a fine).

BIOMETRIC INFORMATION PRIVACY ACT

- Gained recent attention due to a series of class actions suits.
- Enacted in 2008, regulates the retention, collection, disclosure, and destruction of biometric identifiers.
- Biometric identifiers mean:
 - Retina, or iris scan, fingerprint, voiceprint, or scan of hand or face geometry that can be used to identify an individual.
 - Do not include writing samples, signatures, tattoo descriptions, height, weight, x-rays, MRI.

BIOMETRIC INFORMATION PRIVACY ACT

- Employer must take several steps before obtaining biometric identifiers on employees.
 - Inform of the collection or storing of biometric identifiers.
 - Inform the employee of purpose for collecting, storing, or use of biometrics.
 - Receive written release from the employee (or informed consent).
- Employer must have a public statement on schedule for retaining biometrics and guidelines for destroying such data within 3 years or the employee's last interaction.
- Employers may not sell or profit from the biometrics.
- Employers that collect biometrics must provide a reasonable standard of care.

BIOMETRIC INFORMATION PRIVACY ACT

- So what's the problem?
- BIPA provides for a private right of action (right to sue).
- Plaintiffs winning a BIPA claim can recover liq. Damages of **\$1,000 to \$5,000 per violation.**
- Who is exempted?
 - Banks, HIPAA, state agencies, units of government, or those contracting with the state or subcontracting with a gov. entity.

BIOMETRIC INFORMATION PRIVACY ACT

- Ensure compliance
- Insurance
- 200+ Pending cases (over 95% are non-commercial)
- *Rosenbach v. Six Flags*
- Legislative efforts (SB 2134 – Barickman)

DATA SECURITY IN 2019

- GDPR
- CCPA
- Illinois?

PENDING DATA PRIVACY PROPOSALS

- Data privacy omnibus
 1. Transparency
 - Disclose categories of personal data and third parties
 - Information on how third parties can collect personal data, how consumers can change can review and request changes, and how consumers can be made aware of the treatment of data.
 2. Right to Know
 1. Gives consumer the right to know what categories of third parties.

PENDING DATA PRIVACY PROPOSALS

3. Right to Opt-Out

- Allows for consumers to opt-out of the sale of personal data to third parties.

4. Exemptions and Enforcement

- HIPAA, BLB,
- 30 day cure period
- AG enforcement

PENDING DATA PRIVACY PROPOSALS

- Data Privacy
 - HB 2736 (Buckner) & SB 2149 (Hastings) – Creates the Right to Know Act
OPPOSED
 - HB 2785 (Williams) – Creates the Geolocation Information Privacy Act
OPPOSED
 - HB 3051 (Ammons) - Creates the App Privacy Protection Act. Seeks to regulate mobile apps that share information to third parties
OPPOSED

PENDING DATA PRIVACY PROPOSALS

- Data breach notification bills
 - HB 2784 (Williams) – adds to definition OPPOSE
 - HB 3200 (Pappas) – 5 day notification OPPOSE
 - SB 1624 (Glowiak) – 14 day notification to AG OPPOSE
- Biometrics
 - SB 2134 (Barickman) – removes private right of action SUPPORT
 - HB 3024 (Connor) – adds to the definition of biometric information OPPOSE

OTHER TECH BILLS

- Hardware
 - HB 2616 (Grant)
 - SB 1719 (Castro)
 - SB 2088 (Fine) / HB 2026 (Mussman)
- Procurement
 - HB 2127 (Mussman)
- Autonomous Vehicles

OTHER LEGISLATIVE ITEMS

- HB 3624 (Williams) and SB 2132 (Castro)
 - Decarbonize the electricity sector by 2030, 100% renewable by 2050
 - Electrify the transportation network
 - Clean energy jobs program
- HB 2839 (Gong-Gershowitz)
 - Would allow any “persons” to appeal or intervene in lawsuits challenging decisions of state agencies.
- Ethylene oxide

QUESTIONS?

- Feel free to reach out with any questions
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