



- ◆ Summary analysis of state laws
- ◆ Details on every state
- ◆ Our analysis + links to resources

This study scores State Data Breach Statutes across four major metrics:

Breach Notification	Personal Data Coverage	Harm Triggers	Fines & Enforcement
---------------------	------------------------	---------------	---------------------

Each metric is based on several scoring elements within the statute. The goal was to get a broad picture of how statutes differ and which states have relatively “better” and “worse” statutes in terms of overall protection for their constituents.

This is a **consumer-focused score**. If the model works as intended, statutes with the highest scores should generate the most notifications/fines/actions across a range of data breaches.

We expect that this model will generate some discussion. **Some states with ‘stronger’ data breach laws haven’t scored as highly**. Is that because we are scoring more objectively or because we are missing nuance or indicators? We contend that when you look closely at individual elements of each law, even strong Breach Notification Laws often have flaws in one of the four areas we examine, undermining its effectiveness.

State Data Breach Law: Statute Scoring

StateName	StAbbr	Rank	Score	Notify#	PII#	Harm#	Enforce#	StateLawCitation
California	CA	1	57	16	11	12	18	California Civil Code 1798:29 and 1798:80
District of Columbia	DC	2	55	9	18	10	18	DC Consumer Security Breach Information
Washington	WA	3	45	17	12	6	10	Washington Revised Code 19.255.010
Maryland	MD	4	44	23	6	5	10	Maryland Commercial Code 14-3501
Colorado	CO	5	42	28	9	5	0	Colorado Revised Statutes 6-1-716
North Carolina	NC	6	42	21	0	1	20	North Carolina General Statutes 75-61 and 7
Illinois	IL	7	38	16	5	12	5	815 ILCS 530: Personal Information Protecti
Massachusetts	MA	8	34	12	3	-1	20	Massachusetts General Laws 93H, Section 1
Florida	FL	9	33	19	5	11	-2	Fla. Stat. § 501.171
North Dakota	ND	10	33	9	2	12	10	North Dakota Century Code
Hawaii	HI	11	32	17	-1	6	10	Hawaii Revised Statutes 487N-1
Louisiana	LA	12	31	10	1	4	16	La. Rev. Stat. §§ 51:3071 et seq.
Oregon	OR	13	31	17	12	4	-2	Oregon Revised Statutes 646A.600: Oregon
Texas	TX	14	31	13	2	10	6	Texas Business and Commerce Code 521.00
Puerto Rico	PR	15	30	10	-3	18	5	10 P.R. Laws Ann. §§ 4051-4055
Minnesota	MN	16	29	8	-1	12	10	Minnesota Statutes 325E.61
Nevada	NV	17	29	8	1	10	10	Nevada Revised Statutes 603A.010
South Carolina	SC	18	29	13	-1	-1	18	South Carolina Code 39-1-90
Connecticut	CT	19	27	19	-4	12	0	Connecticut General Statutes 36a-701b
Rhode Island	RI	20	27	15	0	4	8	Rhode Island General Laws 11-49.3
New Hampshire	NH	21	25	11	-1	5	10	New Hampshire Revised Statutes 359-C:20
New Jersey	NJ	22	25	15	-3	13	0	New Jersey Statutes 56:8-163: Identity Theft
Alabama	AL	23	24	20	-1	-1	6	2018 S.B. 318, Act No. 396
South Dakota	SD	24	24	12	2	4	6	South Dakota's Senate Bill 62
Virgin Islands	VI	25	23	4	-1	10	10	V.I. Code tit. 14, §§ 2208, 2209
Arkansas	AR	26	22	9	4	4	5	Arkansas Code 4-110-101: Personal Informa
Delaware	DE	27	21	15	2	4	0	Delaware Code Title 6, Chapter 12B
Virginia	VI	28	21	13	1	2	5	Virginia Code 18.2-186.6 and 32.1-127.1:05
Tennessee	TN	29	20	9	-1	2	10	Tennessee Code 47-18-2107
Montana	MT	30	19	15	1	3	0	Montana Code 30-14-1704
New York	NY	31	19	16	3	5	-5	New York General Business Law 899-aa and
Vermont	VT	32	19	13	4	2	0	Vermont Statutes Annotated 9-2430 and 24
Alaska	AK	33	17	4	2	6	5	Alaska Statutes 45.48.010: Personal Informa
Georgia	GA	34	17	5	0	12	0	Georgia Code 10-1-912
Nebraska	NE	35	17	7	5	5	0	Nebraska Revised Statutes 87-801
Maine	ME	36	15	4	0	5	6	10 Me. Rev. Stat. § 1346 et seq.
Wisconsin	WI	37	14	12	-2	4	0	Wisconsin Statutes 134.98
Iowa	IA	38	13	8	0	5	0	Iowa Code 715C.1
Arizona	AZ	39	12	15	1	-2	-2	Arizona Revised Statutes 18-545
Kentucky	KY	40	12	8	2	2	0	KY Rev. Stat. §365.732
Indiana	IN	41	11	11	1	4	-5	Ind. Code §§ 4-1-11 et seq., 24-4.9 et seq.
Michigan	MI	42	10	8	2	-2	2	Mich. Comp. Laws §§ 445.63, 445.72
New Mexico	NM	43	10	18	0	-3	-5	New Mexico Data Breach Act - HB 15
Wyoming	WY	44	10	6	1	3	0	Wyoming Statutes 40-12-501
Missouri	MO	45	9	12	0	2	-5	Missouri Revised Statutes 407.1500
Pennsylvania	PA	46	7	4	-1	4	0	Pennsylvania Statutes 73-2301: Breach of Pe
Ohio	OH	47	5	9	-7	-3	6	Ohio Revised Code 1349.19
West Virginia	WV	48	5	9	-1	2	-5	West Virginia Code 46A-2A-101
Kansas	KS	49	4	4	-1	1	0	Kansas Statutes 50-7a01
Mississippi	MS	50	3	0	-1	4	0	Mississippi Code 75-24-29
Idaho	ID	51	0	4	-4	5	-5	Idaho Code 28-51-104
Guam	GU	52	-4	0	-1	2	-5	Guam Law Link
Oklahoma	OK	53	-4	0	-1	2	-5	24 Okla. Stat. § 161 et seq.
Utah	UT	54	-7	0	-4	2	-5	Utah Code 13-44-101, 13-44-202 and 13-44-3

Our Statute Scoring Model:

Breach Notification:

- Reporting Deadline: 0 to 10 points
- Reporting Deadline for 3rd Parties: 0-4 points
- AG Reporting + Threshold: 0-5 points
- CRA Reporting + Threshold: 0-4 points
- Consumer Notice Requirements: 0 to 6 points
- Max points: 29

Harm Triggers:

- Access to Data Triggers: 8 points
- Substantial Risk Clause: -5 points
- Specific Harm Trigger: 1-7 points
- Harm Analysis Not Required: 0-5 points
- Paper Records Covered: +2 points
- Max points: 22

Personal Data Coverage:

- Data Combos That Trigger Breach: 1 to 3 points (multiplier)
- Data Elements Covered: 0-8 points
- Exceptions: 0-9 points subtracted
- Max points: 24

Fines & Enforcement:

- Size of Potential Fine Estimate: 0 to 10 points
- Max Fine Limitations: 0-5 points subtracted
- Criminal Penalty in Statute: +5 points
- Private Right of Action: +10 points
- It would be good to enhance this indicator with data on AG prosecutions
- Max points: 25

What's not in our model? We haven't taken an exhaustive look at each individual piece of legislation **as a whole**. For instance, we didn't look at data **security**, data **retention**, or data **destruction** requirements embedded into breach statutes. We also don't consider **Privacy Policy** requirements, which are quite valuable.

In our breach notification metric, we didn't delve into **cost containment** provisions that can give companies an out or exactly what must be included in those notifications, which can be a boon to consumers. Note: we do not believe that **free credit monitoring** is one of those boons, but rather a flawed panacea.

We also didn't look at the actual **enforcement priorities of State AG's** or the effectiveness of the **Private Right of Action language**. If there was a way to look at it, it might have been good to scrutinize **actual fines collected** by each state. We might also have added points for Breach reporting portals and Breach Walls of Shame.

We discriminate a bit against states that do not list explicit timeframes in their breach reporting laws. **‘Without delay’** allows lawyers too much wiggle room for us.

Have suggestions or complaints about our scoring model? Email info@privacyplan.net.

State Data Breach Laws: Other Analyses

State Breach Law Harm Triggers

What triggers a data breach notification? We analyze state privacy laws. Acquisition triggers. Harm triggers. Risk Triggers.

State Breach Law PII Analysis

We analyze state privacy laws. Which Data Combos, Data Elements and Data Exceptions impact the definition of a breach?

Other Content

Privacy Library Database

Our Privacy Library focuses on books (textbooks, privacy research, fiction), but also includes movies, online courses, and web resources.

CIPP/US Enhanced Body of Knowledge

CIPP/US certification questions are not divided evenly amongst subjects. This guide shows you where to focus your study and offers tools to so.

