DIGEST

SB 386 Original   2026 Regular Session   Connick

Proposed law creates the Louisiana Data Privacy Act.

Proposed law provides for definitions and terms.

Proposed law provides that proposed law only applies to a person or entity that conducts business in this state or produces products or services consumed by residents of this state, processes or sells personal data, and is not a small business.

Proposed law exempts state agencies, political subdivisions, financial institutions, nonprofit organizations, institutions of higher education, electric public utilities, and entities governed by the privacy and security rules, from applicability of proposed law.

Proposed law exempts protected health information, patient safety and quality data, human subjects research data, deidentified health data, credit reporting data, driver information, education records, and certain employment related data, from applicability of proposed law.

Proposed law excludes personal or household activate from applicability of proposed law and requires a controller or processor to use verifiable parental consent in respect to data collection online.

Proposed law allows a consumer, or a parent or legal guardian of a known child, to submit a request to a controller to confirm and access personal data, correct inaccuracies, delete personal data, obtain portable copy of previously provided data, and opt out of targeted advertising, sale of personal data or certain profiling.

Proposed law requires a controller to respond to a consumer's request within 45 days, or extended once 45 days, and to provide notice and appeal instructions if a request is denied. Allows up to two free responses annually and permits reasonable fees for administrative costs for manifestly unfounded, excessive, or repetitive requests.

Proposed law provides that if a controller is unable to authenticate the request using commercially reasonable efforts, the controller is not required to comply with a consumer request.

Proposed law provides methods by which a controller may comply with deletion requests for data obtained from a source other than the consumer.

Proposed law requires a controller to establish a process for appeal and to respond to appeals within 60 days. If denied, the controller must provide a mechanism for the consumer to submit a complaint to the attorney general.

Proposed law provides that any contractual provisions waiving or limiting consumer's right is against public policy and is void and unenforceable.

Proposed law requires a controller to establish at least two secure and reliable methods for consumers to submit requests to exercise their rights, taking into account customary consumer interactions, secure communication, and authentication needs.

Proposed law prohibits a controller from requiring a consumer to create a new account to exercise rights. Requires a website mechanism for submitting requests if the controller maintains a website. Requires exclusively online controller with a direct consumer relationship to provide only an email address for submission of requests.

Proposed law allows a consumer to designate an authorised agent, including through technology-based opt-out signals such as a browser setting or device-level signals, to act on the consumer's behalf for opt-out requests.

Proposed law provides that technology used by a consumer to designate an authorized agent or communicate an opt-out request shall not unfairly disadvantage a controller.

Proposed law requires that such technology not rely on a default setting and instead require an affirmative, freely give, and unambiguous choice by the consumer to opt-out of the processing of personal data. Further requires that the technology be consumer friendly and easy to use.

Proposed law requires a controller to limit collection of personal data to what is adequate, relevant, and reasonably necessary for disclosed purposes and to maintain reasonable administrative, technical, and physical safeguards appropriate to the volume and nature of the data.

Proposed law prohibits a controller from processing personal data for purposes incompatible with disclosed purposes without consumer consent.

Proposed law clarifies that a controller is not required to provide goods or services that require personal data it does not collect or maintain and may offer different prices, rates, or benefits in connection with a consumer's opt-out or participation in a loyalty or rewards program.

Proposed law requires a controller to provide consumers with a reasonably accessible and clear privacy notice. The notice must disclose the categories of personal data processed, including sensitive data, the purpose for processing, the process for exercising consumer rights and appealing decisions, the categories of personal data, the categories of third parties receiving data, and the methods available for submitting consumer rights requests.

Proposed law requires that a controller engaging in the sale of sensitive personal data and the sale

of biometric personal data post a conspicuous notice.

Proposed law requires that if a controller sells personal data to third parties or processes personal data for targeted advertising, the controller must clearly and conspicuously disclose such processing and provide notice of the manner in which a consumer may exercise the right to opt-out.

Proposed law requires a processor to adhere to the instructions of a controller and to assist the controller in complying with duties under proposed law. Further requires a processor to assist the controller in responding to consumer rights requests using appropriate technical and organizational measures, taking into account the nature of processing and the information available to the processor.

Proposed law requires the processor to provide information necessary for the controller to conduct and document required data protection assessments.

Proposed law requires that processing performed by a processor on behalf of a controller be governed by a written contract with specific requirements. Further allows a processor to obtain an independent assessment using an accepted control standard or framework and to provide the report to the controller upon request.

Proposed law clarifies that proposed law does not relieve either a controller or processor of liability arising from its respective role under proposed law. Further provides that when a person is acting as a controller or processor is determined by a fact-based analysis of the specific processing context and that a processor remains a processor so long as it adheres to the controller's instructions.

Proposed law requires a controller to conduct and document a data protection assessment for specified processing activities. Further requires that the assessment weigh the benefits of the processing against potential risks to consumer rights, taking into account safeguards to mitigate risks.

Proposed law requires a controller to provide a data protection assessment, that shall be confidential and exempt from public records disclosure, to the attorney general upon request pursuant to a civil investigative demand.

Proposed law requires controllers possessing deidentified data to take reasonable measures to prevent reidentification, publicly commit not to reidentify the data, and bind recipients by contrast to comply with proposed law.
Proposed law provides that controllers and processors are not required to reidentify data or comply with certain consumer requests when the data cannot reasonably be linked to a specific consumer and is not sold or disclosed. Further requires reasonable oversight of contracts related to deidentified or pseydonymous data.

Proposed law prohibits the sale of sensitive personal data without prior consumer consent.

Proposed law authorizes the attorney general to enforce any violations of proposed law. Provides a 30 day cure period before suit is filed and establishes civil penalties of up to $7,500 per violation for uncured violations or breaches of a cure statement. Further allows for injunctive relief, recovery of

attorney fees and costs, and deposit of penalties into the Department of Justice Legal Support Fund.

Proposed law establishes a private right of action allowing a consumer to seek damages of up to $7,500 per consumer incident, or actual damages, whichever is greater, as well as injunctive, declaratory, or other appropriate relief. Further requires 30 days written notice and an opportunity to cure before seeking damages.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 51:1776-1780.1)