



Cybersecurity Reporting and Response

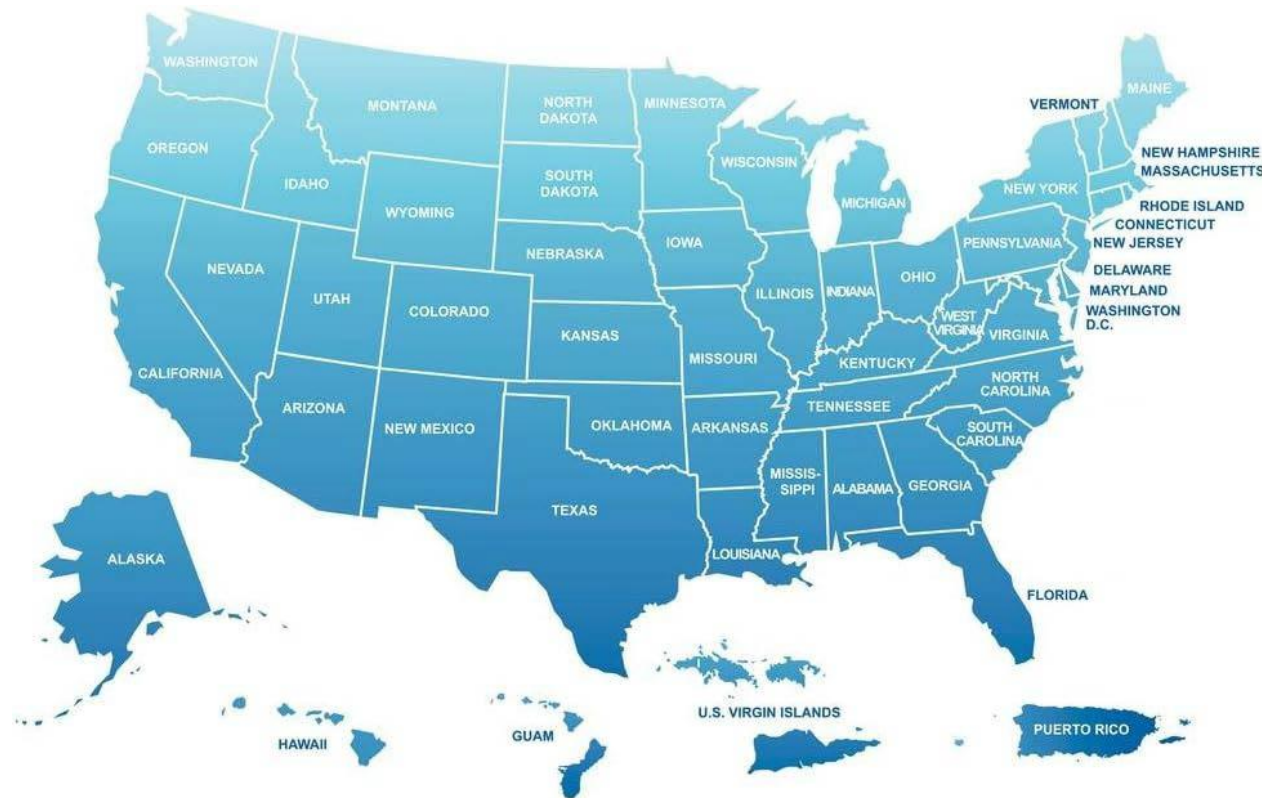
Information Technology Oversight Committee

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National View

Currently, all states and major United States territories have cybersecurity breach notification laws.



Kentucky Revised Statutes 61.931 - 61.934

Security Breach:

1. The unauthorized acquisition, distribution, disclosure, destruction, manipulation, or release of unencrypted or unredacted records or data that compromises or the agency or nonaffiliated third party reasonably believes may compromise the security, confidentiality, or integrity of personal information and result in the likelihood of harm to one (1) or more individuals; or
2. The unauthorized acquisition, distribution, disclosure, destruction, manipulation, or release of encrypted records or data containing personal information along with the confidential process or key to unencrypt the records or data that compromises or the agency or nonaffiliated third party reasonably believes may compromise the security, confidentiality, or integrity of personal information and result in the likelihood of harm to one (1) or more individuals.

Kentucky Revised Statutes 61.931 - 61.934

Personal Information:

An individual's first name or first initial and last name; personal mark; or unique biometric or genetic print or image, in combination with one (1) or more of the following data elements:

- (a) An account number, credit card number, or debit card number that, in combination with any required security code, access code, or password, would permit access to an account;
- (b) A Social Security number;
- (c) A taxpayer identification number that incorporates a Social Security number;
- (d) A driver's license number, state identification card number, or other individual identification number issued by any agency;
- (e) A passport number or other identification number issued by the United States government; or
- (f) Individually identifiable health information as defined in 45 C.F.R. sec. 160.103, except for education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. sec. 1232g;

Kentucky Revised Statutes 61.931 - 61.934

Foundational Requirements:

1. Implement appropriate security safeguards.
2. Implement reasonable investigative procedures and practices.
3. Adhere to additional state and federal regulatory guidelines as applicable.
4. Incorporate these requirements in agreements and contracts with nonaffiliated third parties and require notification of breaches without unreasonable delay, not to exceed 72 hours.

Kentucky Revised Statutes 61.931 - 61.934

Notification Requirements:

1. Notify applicable state entities of a breach as soon as possible, but within 72 hours, using the official form published by the Commonwealth Office of Technology.
2. Conduct a reasonable and prompt investigation.
3. Upon conclusion of the investigation and determination of a breach:
 - a. Notify the applicable state entities listed in item 1 above of the outcome within 48 hours of the completion of the investigation.
 - b. Notify impacted individuals within 35 days as outlined in KRS 61.933, subsection 2.
 - c. If the number of impacted individuals exceeds one thousand, notify all consumer credit reporting agencies at least 7 days before providing notice to individuals.
4. There is a provision to delay these notifications based on a potential negative impact on law enforcement investigative efforts.

Kentucky Revised Statutes 61.931 - 61.934

State Notification Entities for All Breaches:

1. The Commissioner of the Kentucky State Police
2. The Auditor of Public Accounts
3. The Office of the Attorney General
4. The Commonwealth Office of Technology *

Kentucky Revised Statutes 61.931 - 61.934

Additional State Notification Entities:

Executive Branch Entities

- The Secretary of the Finance and Administration Cabinet

Agencies Defined in KRS 61.931(1)(b) or (c) That Are Not Organizational Units of the Executive Branch

- The Commissioner of the Department of Local Government

Public School Districts Defined in KRS 61.931(1)(d)

- The Commissioner of the Department of Education

Postsecondary Education Entities Defined in KRS 61.931(1)(e)

- The President of the Council on Postsecondary Education

The Commonwealth Office of Technology

Breach Notification Responsibilities:

KRS 61.931 – 61.934 and 42.726

These statutes define the role of the Commonwealth Office of Technology:

- Developing and publishing relevant enterprise policies for the Executive Branch.
- Developing and publishing the reporting form, as well as promulgating administrative regulations pertaining to the form content.
- Providing technical assistance to Executive Branch agencies to assist with the development and implementation of reasonable investigative procedures.
- Receiving, documenting, and cataloging reported breach notifications.
- Compiling a report of reported breaches and submitting it to the Legislative Research Commission annually by October 1st, in accordance with 42.726(5).

The Commonwealth Office of Technology

Incident Response Responsibilities:

KRS 42.726

This statute defines the role of the Commonwealth Office of Technology as the central organization for the delivery of information technology infrastructure services and governance for the Executive Branch.

- Maintaining and monitoring the security architecture for the Executive Branch.
- Maintaining incident response policy, the infrastructure incident response plan, and cybersecurity response playbooks.
- Coordinating with Executive Branch agencies related to cybersecurity incidents and aligning the technical response driven by COT with the business response driven by the agency.
- Applying containment and mitigating controls, remediation actions, and system restoration activities to manage the technical incident response.
- Conducting post-incident analysis to strengthen the security posture.

Comparison to Neighboring States

Ohio – Ohio Revised Code 1347

Kentucky	Requirement	Ohio
Consistent, assumes access	Definition of breach	Consistent, includes access
Includes biometric data and a personal mark	Definition of PII	Does not cite biometric data or a personal mark
Within 35 days	Notification to individuals	As soon as possible, within 45 days
When over 1,000 individuals are impacted, at least 7 days before individual notifications	Notification to consumer reporting entities	When over 1,000 individuals are impacted, without unreasonable delay
Defined list of notification recipients, including the Attorney General	State-level notifications	Subordinate entities must report up. The Attorney General may investigate and bring civil action against entities for noncompliance.

Comparison to Neighboring States

Indiana – Indiana Code 24-4.9

Kentucky	Requirement	Indiana
Consistent	Definition of breach	Consistent
Includes biometric data and a personal mark	Definition of PII	Does not cite biometric data or a personal mark
Within 35 days	Notification to individuals	Without unreasonable delay, within 45 days
When over 1,000 individuals are impacted, at least 7 days before individual notifications	Notification to consumer reporting entities	When over 1,000 individuals are impacted
Defined list of notification recipients, including the Attorney General	State-level notifications	Data owners must report to the database owner. The Attorney General may investigate and bring civil action against entities for noncompliance.
Limited law enforcement exception	Delay of notification provisions	Broader provisions, including time to restore system integrity and determine the scope

Comparison to Neighboring States

Tennessee – Tennessee Code 47-18-2107

Kentucky	Requirement	Tennessee
Consistent	Definition of breach	Consistent
Includes biometric data and a personal mark	Definition of PII	Does not cite biometric data or a personal mark
Within 35 days	Notification to individuals	Within 45 days
When over 1,000 individuals are impacted, at least 7 days before individual notifications	Notification to consumer reporting entities	When over 1,000 individuals are impacted, without unreasonable delay
Defined list of notification recipients, including the Attorney General	State-level notifications	Not defined here. Tennessee Code 8-4-119 requires state agencies to notify the Comptroller of the Treasury.

Questions?

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