

Delaware

Del. Code Title 6, §§ 12B-100, *et seq.*

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Quick Facts

Is “Personal Information” broader than the general definition? ¹	✓ Yes
Does the law apply to paper records?	✗ No
Is notification triggered by access only?	✗ No
Is a risk-of-harm analysis permitted?	✓ Yes
Is notice to a state agency or AG required?	✓ Yes, within 60 days of discovery of the breach, if 500 or more residents are notified
Is there a specific deadline for individual notices?	✓ Yes, within 60 days of discovery of the breach
Is there a specific format or language that must be included in the individual notice?	✗ No
Is a private right of action permitted?	✗ No

“Breach” Definition

The unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information.

“Personal Information” Definition

1. An individual’s first name or first initial and last name in combination with any 1 or more of the following data elements:
 - a. Social Security number
 - b. Driver’s license number or state or federal identification card number
 - c. Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to a resident’s financial account

¹ The general definition of “Personal Information” is an individual’s name in combination with any one or more of the following: (1) Social Security number; (2) driver’s license number or state identification card number; or (3) a financial account number or credit or debit card number in combination with any required security code, access code, or password that is necessary to permit access to an individual’s financial account.

- d. Passport number
- e. A username or email address, in combination with a password or security question and answer that would permit access to an online account
- f. Medical history, medical treatment by a healthcare professional, diagnosis of mental or physical condition by a healthcare professional, or deoxyribonucleic acid profile.
- g. Health insurance policy number, subscriber identification number, or any other unique identifier used by a health insurer to identify the person
- h. Unique biometric data generated from measurements or analysis of human body characteristics for authentication purposes, or
- i. An individual taxpayer identification number.

Notification Trigger

Within 60 days following discovery or notification of the breach:

1. Entity that owns or licenses personal information shall disclose the breach to each state resident within 60 days after the discovery of the breach.
2. Entity that does not own or have the right to license the personal information to another entity shall immediately disclose the breach to the entity that owns or who licensed the personal information to such entity.

Risk-of-Harm Analysis Standard

If after an appropriate investigation, the person reasonably determines that the breach of security is unlikely to result in harm to the individuals whose personal information has been breached, then no notice is required.

Special Form/Content of Consumer Notice

N/A

AG Notice Trigger/Deadline

If more than 500 Delaware residents are notified, then notice must be provided to the Attorney General not later than 60 days after determining that a breach occurred.

Notification to Consumer Reporting Agencies Threshold

N/A