

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7186

BILL NUMBER: SB 358

NOTE PREPARED: Feb 17, 2022

BILL AMENDED: Feb 17, 2022

SUBJECT: Consumer Data Protection.

FIRST AUTHOR: Sen. Brown L

FIRST SPONSOR: Rep. Morris

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- (1) Establishes a new article in the Indiana Code concerning consumer data protection, to take effect January 1, 2025.
- (2) Sets forth the following within the new article:
 - (A) Definitions of various terms that apply throughout the article.
 - (B) Exemptions from the bill's requirements concerning the responsibilities of controllers of consumers' personal data.
 - (C) The rights of an Indiana consumer to do the following:
 - (I) Confirm whether or not a controller is processing the consumer's personal data.
 - (II) Correct inaccuracies in the consumer's personal data that the consumer previously provided to a controller.
 - (III) Delete the consumer's personal data held by a controller.
 - (IV) Obtain a copy or representative summary of the consumer's personal data that the consumer previously provided to the controller.
 - (V) Opt out of the processing of the consumer's personal data for certain purposes.
 - (D) The responsibilities of controllers of consumers' personal data.
 - (E) The roles of controllers and processors with respect to a consumer's personal data.
 - (F) Requirements for data protection assessments by controllers of consumers' personal data.
 - (G) Requirements for processing de-identified data or pseudonymous data.
 - (H) Limitations as to the scope of the new article.
 - (I) The authority of the Attorney General to investigate and enforce suspected or actual violations of the new article.

(J) The preemption of local rules, regulation, and laws regarding the processing of personal data.

Effective Date: January 1, 2025.

Explanation of State Expenditures: This bill could increase the workload of the Attorney General to enforce the prohibitions in the bill beginning in the latter half of FY 2024. Increases in workload and/or expenditures are expected to be financed in full or in part with civil penalties collected from controllers and processors who violate the bill's prohibitions.

Explanation of State Revenues: Under the bill, the Attorney General is able to collect a maximum civil penalty of \$7,500 per violation. Additionally, the Attorney General can recover reasonable expenses for investigating and pursuing legal action against violators. Increases in General Fund revenue from civil penalties are indeterminable.

Civil Filings by the Attorney General: If the Attorney General files a civil action against a nongovernmental party and prevails, court fees may be collected from the defendant [IC 33-37-3-1]. Additional court fees will increase revenue to the state General Fund. A civil costs fee of \$100 could be assessed from the defendant, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Civil Actions Filed by the Attorney General:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$5) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- (1) Document fees (\$1 per page) are charged for preparing transcripts or copies of record or certificate under seal.
- (2) A civil garnishee defendant service fee (\$10) is collected from the filing party for each defendant beyond the first three garnishee defendants cited in the lawsuit.

State Agencies Affected: Attorney General.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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