

[2018 South Dakota Senate Bill No. 62](#) (codified version not yet available)

Quick Facts	Breach Based on Harm Threshold	Deadline for Consumer Notice	Government Notification Required
	YES	Not later than 60 days	YES, if >250 residents are affected

## More Details

<b>Scope of this Summary</b>	Notification requirements applicable to individuals or entities that conduct business in the state and own or license covered info. Some types of businesses may be exempt from some or all of these requirements.
<b>Covered Info</b>	First name or first initial and last name, plus: Social Security number; driver's license or other unique government-issued ID number; account, credit or debit card number in combination with any required security/access code, password, routing number, PIN or other information that would permit access to a financial account; health information as defined by HIPAA; employee ID number in combination with any required security/access code, password, or biometric data used for authentication purposes; or username or email address plus a password or security question and answer permitting access to an online account.
<b>Form of Covered Info</b>	Electronic Only
<b>Encryption Safe Harbor</b>	Statute does not apply to covered info that is encrypted, so long as the encryption key was not also acquired.
<b>Breach Defined</b>	Unauthorized acquisition that materially compromises the security, confidentiality, or integrity of covered info, excluding certain good faith acquisitions by employees or agents.
<b>Consumer Notice</b>	<b>Timing:</b> Must be made not later than 60 days after discovery or notification of breach. <b>Method:</b> By written notice or electronic notice (if consistent with E-SIGN or if primary method of communication with affected). Substitute notice is available if certain criteria are satisfied.
<b>Delayed Notice</b>	Notification may be delayed if law enforcement determines that notification will impede criminal investigation. If notification is delayed, it must be made not later than 30 days after law enforcement determines notification will not compromise investigation.
<b>Harm Threshold</b>	Notification to residents not required if, after appropriate investigation <u>and</u> notice to the AG, the covered entity reasonably determines that the breach will not likely cause harm to affected residents. Determination must be documented in writing and maintained for at least three years.
<b>Government Notice</b>	If over 250 residents are affected, must also notify AG not later than 60 days after discovery or notification of breach of system security.
<b>Consumer Agency Notice</b>	If required to notify any residents, must also notify all national CRAS without unreasonable delay of timing, distribution, and content of notice.
<b>Potential Penalties</b>	Violations may result in civil penalties.

Last revised on July 1, 2018

This summary is for informational purposes only. It provides general information and not legal advice or opinions regarding specific facts. Additional requirements or conditions may apply to any or all provisions referenced herein. For more information about the state data breach notification laws or other data security matters, please seek the advice of counsel.