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KEY LEGAL DEVELOPMENTS IN PRIVACY AND DATA SECURITY IN 2020 AND GAZING AHEAD TO 2021

In this article the authors address the contradictory case law concerning Illinois's pioneering Biometric Information Privacy Act with regard to statute of limitations, Article III standing, and insurance coverage. They then turn to a discussion of litigation brought under California's Consumer Privacy Act. They close with coverage of the invalidation of one of the legal bases for transfers of personal data from the EU to the U.S. in compliance with EU's General Data Protection Regulation.

By Wynter Deagle, Molly DiRago, Anne-Marie Dao, and Yarazel Mejorado *

While privacy and data security are always a dynamic legal space, 2020 proved particularly kinetic. In the midst of a worldwide pandemic, banking and financial services businesses were presented with a plethora of new regulations, legislation, and caselaw that once again shifted the privacy landscape. Let's take a look back at some of 2020's key legal developments and look to where we are likely headed in 2021.

THE ILLINOIS BIOMETRIC INFORMATION PRIVACY ACT: MANY CASES BUT NO CLARITY

2020 was a very busy year for Illinois' pioneering Biometric Information Privacy Act (BIPA) litigants. In 2020, at least 54 court rulings referenced BIPA (more than double the count in 2019). Despite this steady clip of litigation in 2020, open questions remain about

BIPA's scope and reach. As a result, 2021 is shaping up to be a groundbreaking year for BIPA litigation.

Illinois was at the forefront of biometric legislation with its 2008 enactment of BIPA — the first statute to regulate the collection and storage of biometric data. Generally, BIPA requires any private entity in possession of biometric information to: (i) develop a written policy, (ii) inform the owner of the biometric information in writing about the purpose for collecting the information and the length of time it will be stored, (iii) obtain written consent for the collection and storage of the data, and (iv) refrain from selling, leasing, trading, or otherwise profiting from that biometric information.¹ A critical component of BIPA is its private right of

¹ 740 ILCS 14/1, *et seq.*

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