



NCISS & FALI Legislative Update

June 17, 2021



Wes Bearden, NCISS President

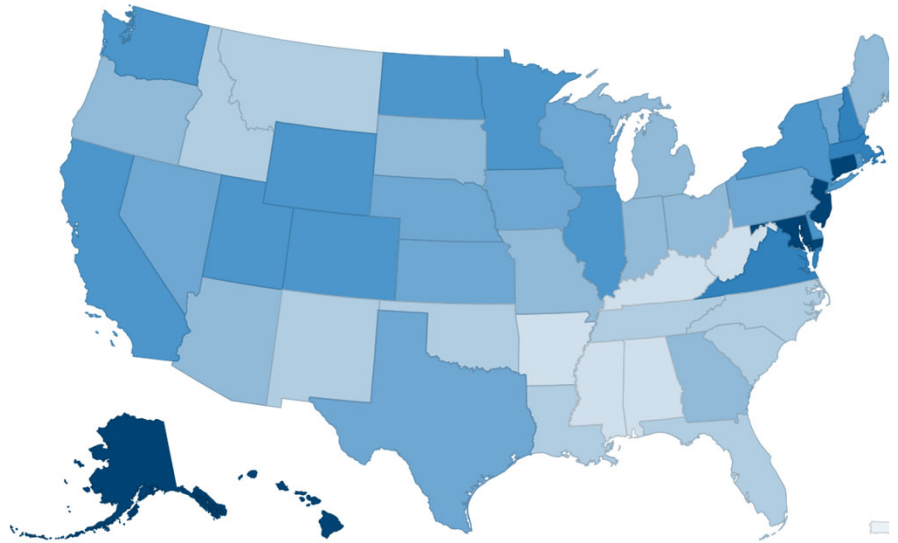
Dallas, Texas

BeardenInvestigations.com

Federal Issues



State Issues

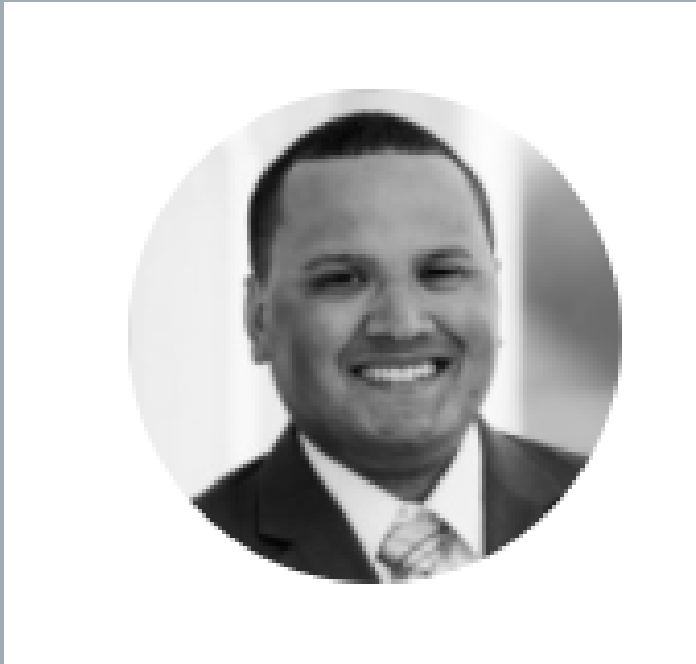


UPDATE

LOADING...

Federal Legislative Topics

1. D.C. Agenda and Ongoings
2. Federal Successes
3. Open Courts Act
4. Federal Privacy Act
5. PRO Act of 2021



JASON ORTEGA

D. C. Ongoings

1. Infrastructure Legislation
2. Border Crisis
3. Police Reform Act
4. Gun Control – Enhanced Background Checks / Gun Ban.



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Corona-Virus Success?

- Coronavirus Legislation
 - NCISS Educational Programs with PPP and State Aide
 - Regulatory updates for each state.
 - Forgiveness Application Coalition.



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Open Courts Act

- HR 8235 – Passed House.
- S.4988 – Introduced in Senate.
- Bipartisan effort to:
 1. Eliminate or Reduce PACER fees.
 2. Potential for some additional identification information.
 3. May take some time (2025) to institute.



Federal Privacy Bill

- GDPR – Europe’s framework regarding Data Privacy.
- CCPA – Mimics GDPR but, on a limited scale.
- NY, TX, VA – Currently state proposals on state, CCPA like, privacy bills.
- VA has passed its bill!

Federal Privacy Act Components

Social Media – Use, Access, Policing.

Privacy – Individual Rights.

Specific Add On – Think DPPA, Think GPS Tracking, Think DNA, Think Genetic Material Regulations, etc...



California Bill

- **Who ?**
- **Gross Revenue = \$25 Million**
- **Buys, receives 50,000 or more consumers, households, or devices. OR,**
- **Derives 50 percent or more of its annual revenues from selling consumers' personal information.**

CALIF

ORN REPUBLIC

What is Personal Information?

- “Personal information” means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly,
- (A) Identifiers such as a real name, alias, postal address, unique personal identifier, online identifier, Internet Protocol address, email address, account name, social security number, driver’s license number, passport number, or other similar identifiers.
- (D) Commercial information, including records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies.
- (E) Biometric information.
- (F) Internet or other electronic network activity information, including, but not limited to, browsing history, search history, and information regarding a consumer’s interaction with an internet website application, or advertisement.
- (G) Geolocation data.
- (H) Audio, electronic, visual, thermal, olfactory, or similar information.
- (I) Professional or employment-related information.
- (J) Education information, defined as information that is not publicly available personally identifiable information as defined in the Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).
- (K) Inferences drawn from any of the information identified in this subdivision to create a profile about a consumer reflecting the consumer’s preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities, and aptitudes.
- (L) Sensitive personal information.



CCPA Exemptions?

Exercise or defend legal claims.

No Application to FCRA data AND it is used in that way. Same for GLB data.

Personal information collected, processed, sold, or disclosed pursuant to the Driver's Privacy Protection Act of 1994

Protection by evidentiary privilege.

HIPPA and Medical Act.

Comply or in response to Law Enforcement.

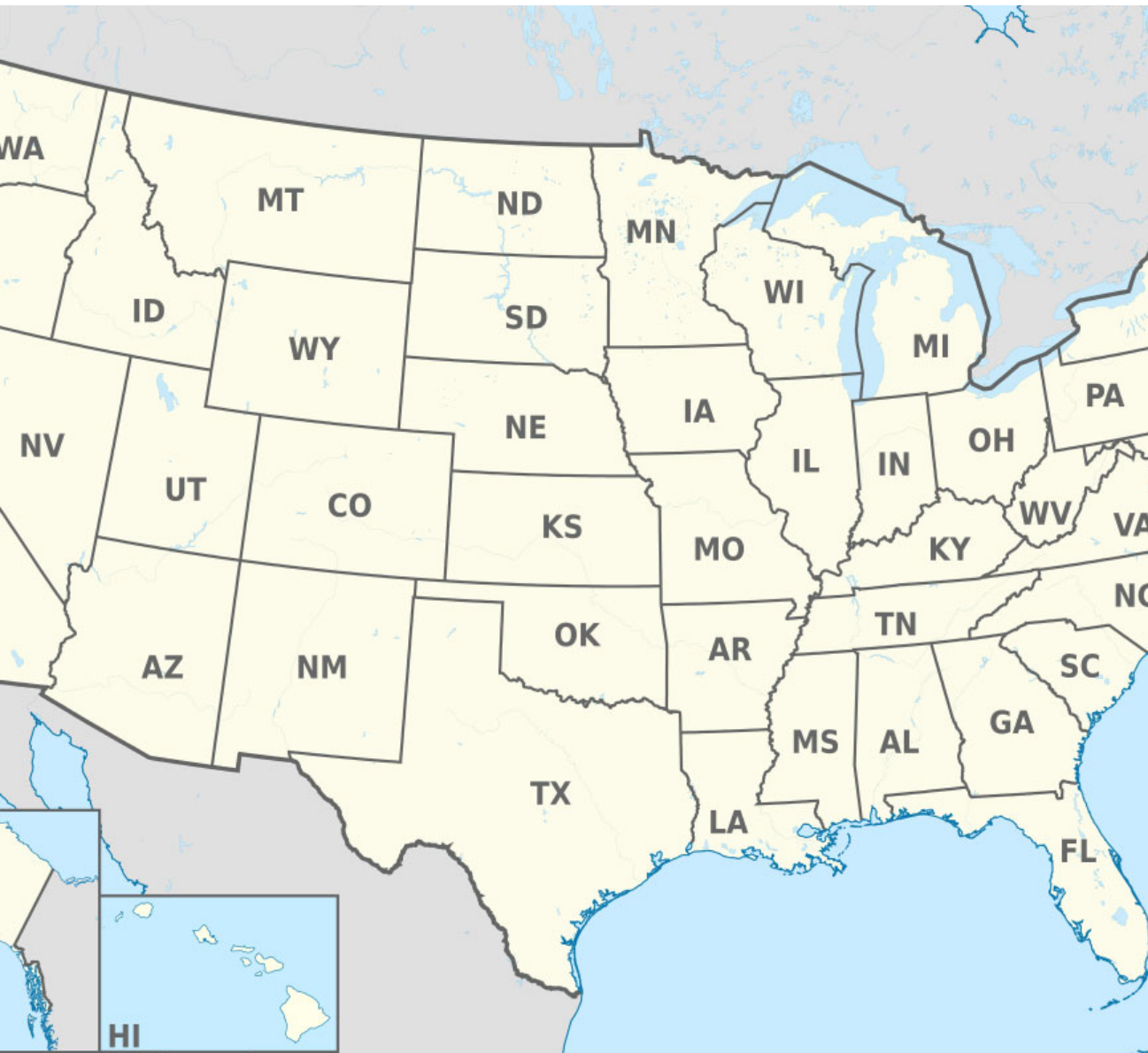
Virginia Consumer Data Protection Act

Senate Bill 1392



Passed with favorable positions:

1. Only applies if processing 100k “consumers” or 20k consumer with 50% income from that processing.
2. FCRA and HIPPA regulations OK.
3. No private cause of action.
4. Chapter allows a processor or controller ability to “investigate, establish, exercise, prepare for or defend legal claims.”



State Data Privacy Bills

- Alabama
- Arizona
- Connecticut
- Florida
- Kentucky
- Minnesota
- New York
- Oklahoma
- Texas
- Utah
- Washington



TX and FL Bills

- FL – H.B. 969 – Omnibus Bill.
- TX – Multiple Bills
 - HB 3741 – 5,000? 3rd Party Hangout
 - HB 3742 – DNA
 - HB 3743 – Distance Learning Data
 - HB 3744 – Mug Shot Issues
 - HB 3745 – Resale of Tickets
 - HB 3746 – Data Breach





FLORIDA - HB 969

- Buy 50,000 \$25 Million **OR** “Derives 50 percent or more of its global annual revenues from selling or sharing personal information about consumers.”
- Long Bill 39 Page Bill
- Exceptions:3. Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons **by federal, state, or local authorities.**



Privacy Bill Concerns

- Does the bill limit exposure to small business?
- Even if so, what if your client is a large affected business?
- Private right of action by the consumer?
- Allows the consumer to request what data you have, what you are processing and to delete it or correct it.

The PRO Act

The Protecting the Right to
Organize Act.

H.R.842 - Protecting the Right
to Organize Act of 2021.

S.420 - Now in Senate
Committee on Health,
Education, Labor and Pensions.

The bill would amend the National Labor Relations Act to define an employee as ABC:

An individual performing any service shall be considered an employee and **NOT** an independent contractor, unless—

- (A) the individual is free from control and direction in connection with the performance of the service, both under the contract for the performance of service and in fact;
- (B) the service is performed outside the usual course of the business of the employer; and
- (C) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed.

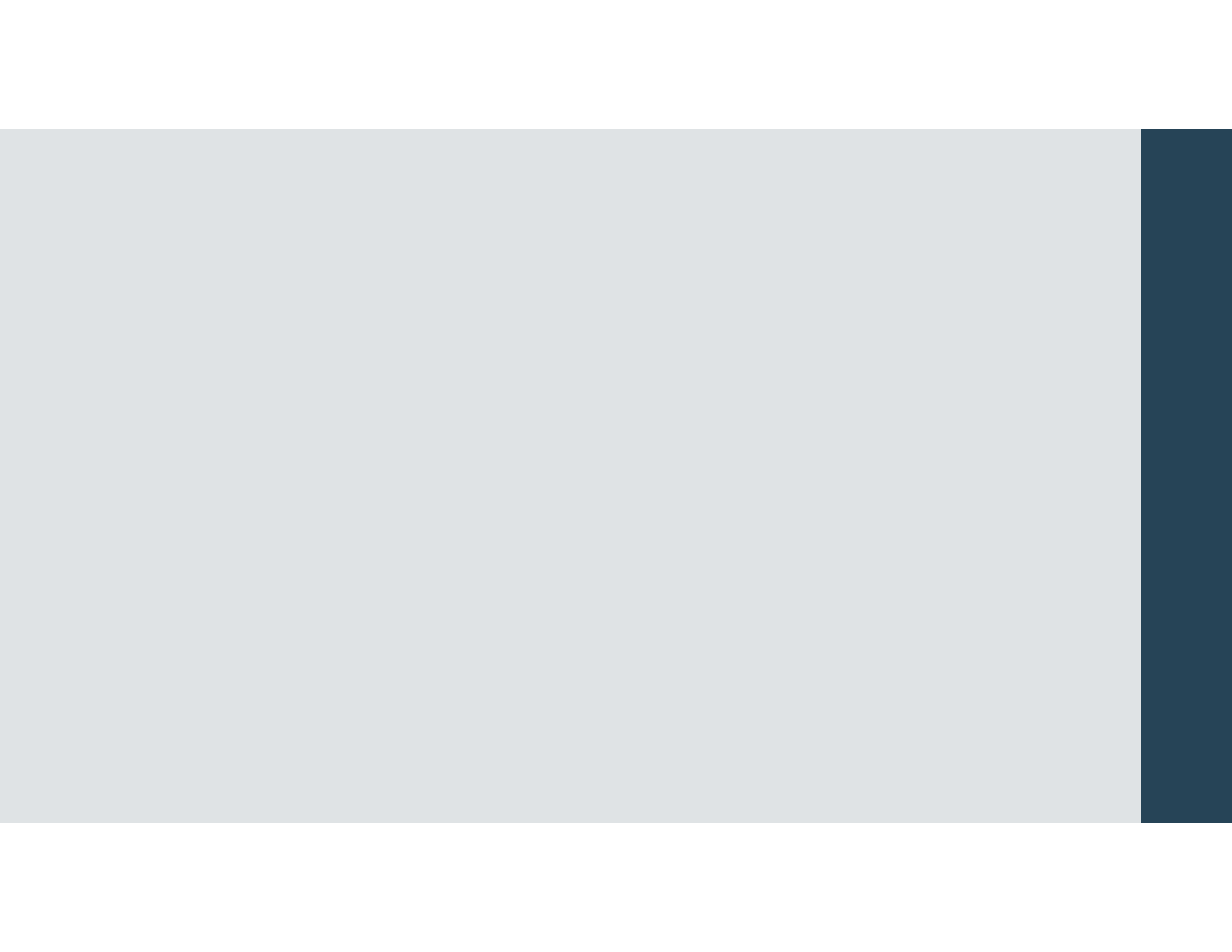


California

Where did this come from? AB5

Where are we at?

- How many votes are needed? 60 or 50+1?
 - Reconciliation
 - Parliamentary
 - Filibuster
- Where is President?
- What about DOL?
 - Rule Making Procedures
 - Exemptions?



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- Represented by President / Leg Chair
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Contact your NCISS LAB Committee



Lisa Turley
1st Vice President



Dean Gluth
At Large Director

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Are YOU being represented?



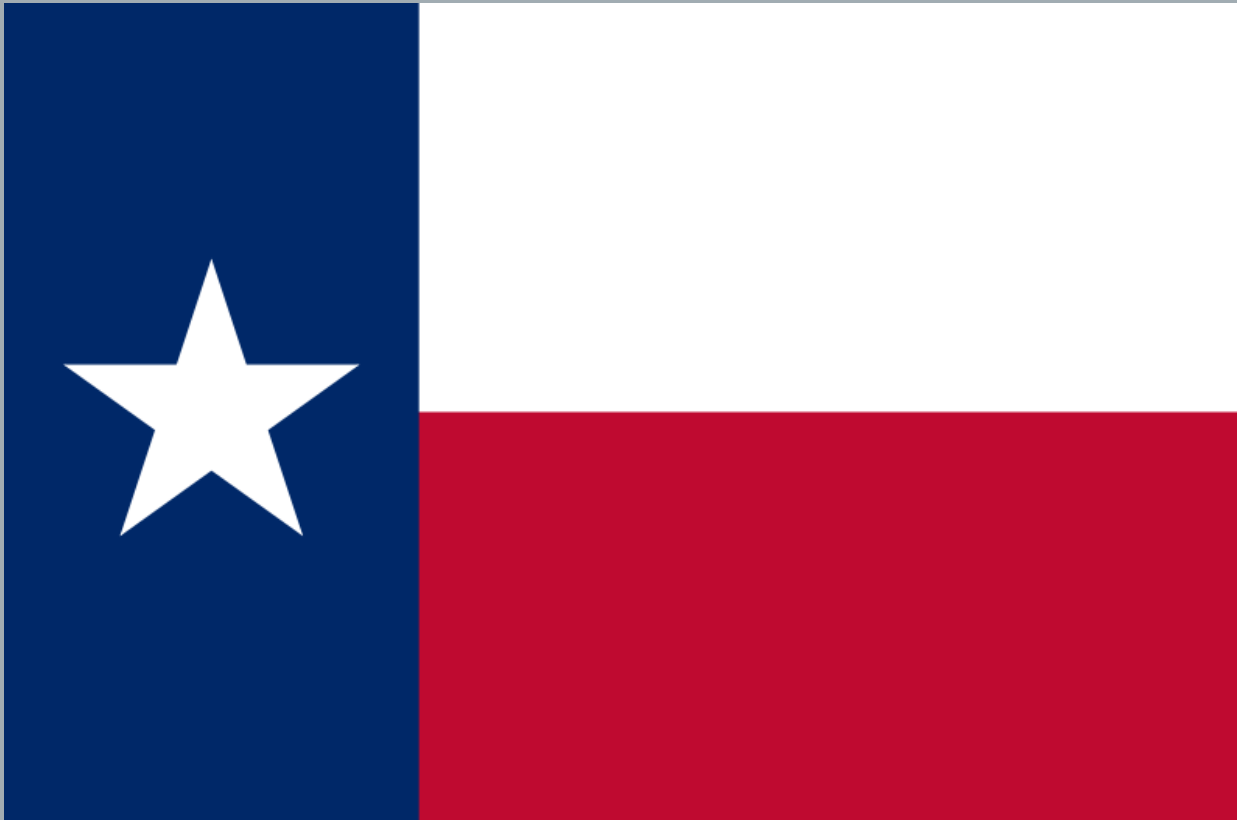
LAB Issues?

- De-Regulation
- State GPS Laws
- Reciprocity
- Security Issues - Equipment
- Privacy Issues
- Public Record Access Issues
- DMV Issues



DEPARTMENT OF MOTOR VEHICLES

- Recent push to limit DMV records against DPPA decided law.
- Remember, States MAY sell.
- Investigators have a legitimate need to access this information.
- Currently, as many administrative issues as legislative issues.
- Texas – SB 15, SB 16.



S. 15 Ban Sale of
Personal Data from
Certain State
Agencies – DMV Bill

S. 16 Protect State-
held Personal Data -
NO DATA Bill

Texas DMV Data Issues



EDUCATION

Help Us, Help
You!

Why do we need this?

- Identifying and documenting insurance fraud.
- Investigating and identifying vehicle owners involved in motor vehicle accidents.
- Pre-employment investigations.
- Locating children abducted by non-custodial parents.
- Conducting due diligence in the efforts to locate individuals for various tribunals.
- Identification of assets subject to seizure by court order.
- The identification of witnesses, sex or violent offenders, stalkers or those subject to temporary restraining orders or protective orders.
- Identifying individuals subject to service of process by the court system.

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5. Members Only Webinars and Legislative Information
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7. Annual Hit the Hill Event



Washington Weekly Updates

Headlines to Know

Tomorrow, President Biden will outline his economic development and infrastructure plan. Tax increases will accompany this plan to pay for a portion of the spending. He will prioritize four tax proposals: increasing the corporate rate from 21% to 28%...

On Thursday, the Senate voted to extend PPP for two months with an overwhelming 92-7 majority. This extension makes the new loan app...

Other News to Know

The attack on a supermarket in Boulder, Colorado, last Monday marks seven mass shootings in seven days. The mass shooting in Boulder and the Atlanta spa shootings are likely to reignite the national firearm debate...

It is estimated that the US will only suffer minimal impact from the blockage of the Suez Canal. Roughly 53% of US imports arrive in the country...

Last Wednesday, Dr. Rachel Levine was confirmed by the Senate to serve as assistant secretary for health...

Washington Update Cont.

This Week on Capitol Hill

Hearings of Interest:

- Monday, Mar. 8 | 10:30 a.m. House Rules Committee meets to formulate a rule on H.R. 842 (117), the "Protecting the Right to Organize Act of 2021"; H.R. 8 (117), the "Bipartisan Background Checks Act of 2021"; and H.R. 1446 (117), the "Enhanced Background Checks Act of 2021."
- Tuesday, Mar. 9 | 10 a.m. Senate Health, Education, Labor and Pensions Committee hearing on "Examining Our COVID-19 Response: An Update from the Frontlines." 106 Dirksen.
- Tuesday, Mar. 9 | 10 a.m. House Appropriations Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Subcommittee hearing on "The Rural Economy."

Markups (votes) of Interest:

Wednesday, Mar. 10 | 9:45 a.m. Senate Homeland Security and Governmental Affairs Committee markup to vote on the nomination of Shalanda D. Young to be deputy director of the Office of Management and Budget. 342 Dirksen.

Schedule of Floor Activity:

The House and Senate will be in session this week, voting to continue the process of confirming Biden's Cabinet, as well as moving forward on the appropriations bill and organizing committees.



HIT THE HILL















THANK YOU!!!!

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YOUR PROFESSION.