

**Global Data
Privacy and
Security Team**

Privacy At A Glance: Employee Privacy Policies

Several states have enacted legislation requiring employers to create internal privacy policies that govern the disclosure of employee personal identifying information. In 2005, Michigan became the first state to pass such a statute. Michigan’s Social Security Number Privacy Act expressly requires employers to create policies that ensure the confidentiality of employee social security numbers and to disseminate those policies to employees. New York adopted a similar statute. Several other states – Connecticut, Massachusetts, and Texas – have statutes mandating the establishment of privacy policies that could also apply in the employer-employee context.

Companies should verify that they have a written policy concerning the use and disclosure of protected employee personal information; if they do not they should confirm that none of the states in which they operate currently require such a policy or are considering enacting employee-privacy-policy legislation.

Bryan Cave’s Global Data Privacy and Security Team helps clients safely collect, utilize, transfer, and monetize data.

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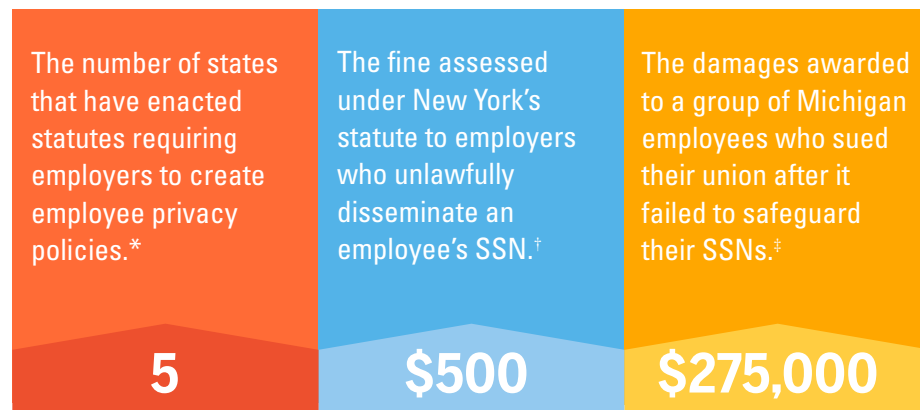
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* These states are: Connecticut (Conn. Gen. Stat. § 42-471), Massachusetts (201 Mass. Code Regs. 17.03), Michigan (Mich. Comp. Laws § 445.84), New York (N.Y. Lab. Law § 203-d), and Texas (Tex. Bus. & Com. Code Ann. § 501.052).

† N.Y. Lab. Law § 203-d(3).

‡ John F. Buckley & Ronald M. Green, State by State Guide to Human Resources Law § 1.36 (2015).

What to think about when drafting or reviewing an employee privacy policy:

- ✓ Does the privacy policy capture the main ways in which the organization collects personal information from its employees?
- ✓ Does the privacy policy ensure the confidentiality of employee SSNs?
- ✓ Does the privacy policy prohibit the unlawful disclosure of employee SSNs?
- ✓ Does the privacy policy explain how employee SSNs are protected?
- ✓ Does the privacy policy limit who has access to information or documents that contain employee SSNs?
- ✓ Does the privacy policy describe how to properly dispose of documents that contain employee SSNs?
- ✓ Does the privacy policy establish penalties for violation of the policy?
- ✓ Will the privacy policy be published in an employee handbook, procedures manual, or similar document?
- ✓ Will the privacy policy also be made available electronically?
- ✓ Could the privacy policy be understood by the average employee?
- ✓ Does the privacy policy use terms that might be misunderstood or misinterpreted by a regulator or a plaintiff's attorney?
- ✓ Does the privacy policy comply with the laws in each jurisdiction in which the organization is subject?