

## **WESTERN HEMISPHERE DATA PROTECTION LAWS**

**2012**

Note: The following chart was developed by the U.S. Department of Commerce in order to provide information on national data protection laws that have either been enacted or are currently under consideration around the world. The following does not address sectoral laws, local laws, criminal/civil code provisions, or constitutional provisions that may address data protection

The chart is intended for information only and is not an authoritative statement or summary of the actual laws in these countries. The chart also may not reflect all recent changes and legislative updates.

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COUNTRY	DATA PROTECTION LAW	EFFORTS TO DEVELOP LAW	KEY DETAILS	GOVERNMENT CONTACT
<b>Argentina</b>	Law for the Protection of Personal Data (LPDP) of 2000 <a href="#">Link to Law (Spanish)</a> <a href="#">Unofficial English translation</a>	The existing law has been clarified by the Argentine Protection Authority (APA). The APA has defined 3 different levels of security that persons responsible for databases should enforce depending on the type of data contained therein	Based on the EU Directive and the Spanish Data Protection Acts.  Requires registration by data owner.  Requires foreign “adequacy” for international data transfers and meets EU “adequacy” standard. There are multiple exceptions including consent of data owners and international judicial cooperation.  No specific mandate to notify the APA or data owners in event of a data breach.	Dirección Nacional de Protección de Datos (DNPDP), Ministry of Justice Teléfonos: 54-11-4383-8512 <a href="mailto:infodnpdp@jus.gov.ar">infodnpdp@jus.gov.ar</a> <a href="http://www.jus.gov.ar/dnpdpnew/">http://www.jus.gov.ar/dnpdpnew/</a>  <a href="http://www.jus.gov.ar/datos-personales.aspx/">http://www.jus.gov.ar/datos-personales.aspx/</a>
<b>Bahamas</b>	Data Protection (Privacy of Personal Information) Act, 2003 <a href="#">Link to Act</a>	2008 Annual Report of Commissioner stated goal of achieving EU “adequacy” rating	Consistent with OECD and EU principles  Establishes Data Protection Commissioner  Does not meet EU adequacy standard due to case backlog	Office of Data Protection Commissioner (242) 702-1553/ 702-1534 dataprotection@bahamas.gov.bs <a href="http://www.bahamas.gov.bs/dataprotection">www.bahamas.gov.bs/dataprotection</a>
<b>Barbados</b>		Data Protection Act (2005) In 2005, drafted the Data Protection Act, regulating the collection, use, and transfer of personal data came into force.	Governs the collection, use, and transfer of personal data	Ministry of Commerce Consumer Affairs & Business Development 246-4310056 pscommerce@commerce.gov.bb
<b>Belize</b>	No comprehensive law	<a href="#">Freedom of Information Act (2000)</a> along with several other various laws may impact data protection if applied in the courts.	There is an existing Freedom of Information Act in Belize that protects personal ‘documents’ but lacks clear reference to electronic records or data.	Information Communication Technologies and E-government Initiative Ministry of Public Service, Governance Improvement, Elections & Boundaries and Sports - Government Of Belize <a href="http://mps.gov.bz/egov/modules/amc_ontact/">http://mps.gov.bz/egov/modules/amc_ontact/</a>
<b>Bermuda</b>	No comprehensive law  Sectoral laws	In 2008, government announced plans to draft legislation on data protection to help companies transfer information to the EU		Ministry of Energy, Telecommunications & E-Commerce Telephone: 441.292.4595 Email: gtelecom@gov.bm <a href="http://www.mtec.bm">http://www.mtec.bm</a>
<b>Bolivia</b>	No comprehensive law			

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	Sectoral laws			
<b>Brazil</b>	Habeas Data Law of 1997 <a href="#">Link to Law</a>  Consumer Protection Code of 1990 <a href="#">Link to Code</a>	A draft data protection law was made available for public comments in late 2011. Comments were received by the Ministry of Justice which will be reviewing and preparing a final version of the bill to be submitted to the National Congress.	Habeas Data Law gives grants right to petition for rectification  Code requires notification, access, source information, rectification, and approval prior to data transfer	
<b>Canada</b>	Personal Information Protection & Electronic Documents Act (PIPEDA) <a href="#">Link to Act</a>	In September 2011, the Government proposed several amendments to PIPEDA including changes in: consent requirements and definitions of valid consent, and mandatory notifications of data breaches. <a href="#">Link</a>	Establishes 10 privacy principles and requires opt-out consent  Commissioner has broad enforcement power  Meets EU “adequacy” standard  PIPEDA governs cross border data flows with a link to Canada (i.e. data collected or processed in Canada).	Information and Privacy Commissioner/Ontario Tel: 416-326-3333 E-mail: <a href="mailto:info@ipc.on.ca">info@ipc.on.ca</a> <a href="http://www.privcom.gc.ca/">http://www.privcom.gc.ca/</a> .
<b>Chile</b>	Law for the Protection of Private Life, 1999 <a href="#">Link to Law (Spanish)</a>	In July 2009, announced plans to create a government authority for privacy and transparency  In 2011 Congress received a bill that is a collection of several suggested data protection reforms including clarifications of consent and special protections for children.  Proposed new Data Protection Law sent to the Senate in Feb. 2012. For more information please read <a href="#">here</a> .	Establishes rights of access and correction; requires individual enforcement  Requires registration of Chilean databases  Includes rules for financial and health industries	
<b>Colombia</b>	Data Protection Law (2012) <a href="#">Link to Act (Spanish)</a>	Colombia adopted its data protection law on October 17, 2012.	The Act guarantees rights of knowledge, access, and rectification. Rights extend to foreign databases. It is enforced via the court system.  The new bill can carry fines and penalties in excess of USD \$500,000.	

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			Unless otherwise authorized by the courts, the bill would restrict cross border data flows when data security cannot be ensured.	
<b>Costa Rica</b>	Law on Protection of the Person Concerning Personal Data Treatment of 2011 <a href="#">Link to Law</a> (Spanish) <a href="#">Link to Unofficial English Translation</a>		Provides rights of knowledge, consent, quality, safety, and confidentiality	
<b>Dominican Republic</b>	No comprehensive law  Sectoral laws			Instituto Dominicano de las Telecomunicaciones Tel: 8290732-3030 <a href="http://www.indotel.gob.do/">http://www.indotel.gob.do/</a>
<b>Ecuador</b>	No comprehensive law  Ley del Sistema Nacional de Registro de Datos	In 2006, data privacy legislation was proposed <a href="#">Link to Legislation</a> (Spanish)	The registry contains a requirement that users of the data create a mechanism to ensure security of the data they use.	Ministry of Telecommunications <a href="http://www.mintel.gob.ec/">http://www.mintel.gob.ec/</a> Av. 6 de Diciembre N25-75 y Av. Colón Quito Pichincha Ecuador (593) 2 220 0200
<b>El Salvador</b>	No comprehensive law	Some efforts have been made to develop a data protection community. The Salvadoran Association for the Protection of Data and the Internet is a nonprofit working to support data privacy in the country.		
<b>Guatemala</b>	No comprehensive law	Attempts to establish data protection laws have stalled in recent years		
<b>Honduras</b>	No comprehensive law			El Instituto de Acceso a la Información Pública (IAIP) <a href="http://www.iaip.gob.hn/">http://www.iaip.gob.hn/</a>
<b>Jamaica</b>	No comprehensive law  Electronic Transaction Act <a href="#">Overview of Act</a>			Ministry of Mining and Telecommunications Tel: (876) 929-8990 -9 <a href="mailto:communications@mct.gov.jm">communications@mct.gov.jm</a> <a href="http://www.mmt.gov.jm/eta-page.htm">http://www.mmt.gov.jm/eta-page.htm</a>
<b>Mexico</b>	Federal Law on the Protection of Personal Data held by Private Parties of 2010 <a href="#">Link to Law</a> (Spanish)	Regulations related to the Law were published in December 2011 and clarified definitions and requirements of consent, data transfers, and subjects' rights.	Establishes a right of data protection for personally identifiable information and sensitive data  Covers legal or natural private	Federal Institute of Access to Public Information and Data Protection (IFAI) Tel: 01 800 8354324

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			<p>persons who process PII, but excludes credit bureaus</p> <p>Lays out principles and obligations for data controllers and rights of data subjects</p> <p>Establishes monetary and criminal sanctions for unlawful processing</p> <p>Data breach may be punishable by a fine of up to USD \$3 million.</p> <p>International data transfers are not restricted by the Law, though prescribed protections apply</p>	<p>Ministry of Economy <a href="http://www.edigital.economia.gob.mx">http://www.edigital.economia.gob.mx</a></p> <p>Office of Federal Attorney for Consumer Protection (PROFECO) Tel. (55)5625 6700</p>
<b>Nicaragua</b>	<p>Access to Information Law of 2007 <a href="#">Link to Law</a> (Spanish)</p>		<p>Contains Principals of Accountability in regards to the use of information.</p> <p>Introduces Habeas Data concept.</p> <p>Data concerning race, health, political affiliation, economic situation, etc., are protected.</p>	
<b>Panama</b>	No comprehensive law			
<b>Paraguay</b>	<p>Data Protection Law <a href="#">Link to Law</a> (Spanish)</p>		Regulates data collection, storage, distribution, publication, modification, and use	
<b>Peru</b>	<p>Ley de Protección de Datos Personales, 2011 <a href="#">Link to Law</a> (Spanish) <a href="#">Link to Unofficial English Translation</a></p>		Establishes a set of principals including security of data, consent of data holder, availability of recourse, and adequate levels of protection.	
<b>Uruguay</b>	<p>Personal Data Protection Act, Law 18.331, 2008 <a href="#">Link to Law</a> (Spanish)</p>		<p>Establishes the following principles for data controllers: legality, truthfulness, purpose, informed consent, data security, reserve, and liability.</p> <p>Establishes an independent supervisory body to monitor</p>	<p>Unidad Reguladora y de Control de Datos Personales <a href="http://www.datospersonales.gub.uy/sitio/">http://www.datospersonales.gub.uy/sitio/</a></p>

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			compliance  Granted EU “adequacy” standard	
<b>Venezuela</b>	No comprehensive law			