

In 2018, lawmakers had to grapple with several difficult and pressing technological matters, including cyber security, net neutrality, online privacy, and equity of access.

Net Neutrality protections enacted in California. Net neutrality is the principle that lawful content on the internet should not be subject to blocking, throttling, or paid prioritization by internet service providers (AT&T, Comcast, etc.). A recent move by the Trump Administration removed an existing requirement that the internet operate under this principle. In response, several states are enacting their own protections. After considerable political infighting amongst the Democrats that control both houses of California's Legislature, SB 822 by Senator Scott Wiener (D–San Francisco) passed both houses and was signed by the Governor. The bill enacts net neutrality protections in California.

One of the most heavily debated issues in 2018, this bill took a tumultuous path. The telecom industry, being one of the most powerful lobbying interests in California, spent considerable monetary and political capital in an attempt to kill the bill before it went to Governor Brown. However, overwhelming public support for the bill was enough to outweigh the heavy-spending lobbying by AT&T, Comcast, Verizon, and the other major telecom corporations. School agencies have been prominently involved in this fight due to the potentially significant impact a lack of net neutrality could have on the ability of teachers to teach, and students to learn. Of particular concern is the prospect of having to utilize the new adaptive, fully-online assessments without the protections afforded by net neutrality.

Within 24 hours of Governor Brown's signing of the bill, the Federal Department of Justice (DOJ) filed suit against California, saying in a statement:

“Senate Bill 822, an Internet regulation bill signed into law earlier today by Governor Jerry Brown, unlawfully imposes burdens on the Federal Government's deregulatory approach to the Internet.”

The provisions of SB 822 are widely considered the most strict net neutrality protections passed by any state so far, so the DOJ could intend to use this as a test case to challenge all state-level net neutrality laws, with some pundits predicting the legal challenge to ascend all the way to the United States Supreme Court.

Privacy protections for consumers enacted in 2018. Public concerns over the use of personal information maintained by corporations like Facebook, Google, and Amazon have prompted legislation to better safeguard consumer data.

In a last-minute effort to avoid a costly ballot fight in November 2018, the California Legislature passed, and the Governor signed, AB 375 by Assembly Member Ed Chau (D–Arcadia) to place new restrictions on the use of a consumer's personal information, and to provide consumers with new rights, including the rights to:

- Know what personal information is collected about them
- Whether their personal information is being sold, and to whom
- Access their personal information
- Delete personal information collected from them
- Opt-in or opt-out of the sale of their personal information
- Equal service and price, even if the consumer exercises the aforementioned rights

School attorneys are examining this new law to determine if it imposes any new requirements on LEAs. We may see some cleanup legislation to AB 375 in the coming legislative session as businesses seek clarity in trying to implement these new standards.

Student computer access now required for juvenile hall, other alternative programs. The Legislature and Governor expanded the rights of young adults attending juvenile court schools with AB 2448 by Assembly Member Mike Gipson (D–Los Angeles). The bill adds access to computer technology as one of the activities that is guaranteed as part of age-appropriate extracurricular and enrichment activities under current law. The bill also entitles children in juvenile hall to access to computers specifically to allow them to stay in contact with their families.

California creates Cybersecurity Integration Center and requires development of Statewide Cybersecurity Strategy. Building upon recent actions by Governor Brown to strengthen the State’s cybersecurity, this year’s enactment of AB 2813 by Assembly Member Jacqui Irwin (D–Ventura) codifies in statute the California Cybersecurity Integration Center (Cal-CISIC) and requires Cal-CISIC to develop a cybersecurity strategy for California. The bill provides that Cal-CISIC’s primary mission is to reduce the likelihood and severity of cyber incidents that could damage California’s economy, infrastructure, or public and private sector computer networks. It specifies that Cal-CISIC shall serve as the central organizing hub of the state government’s cybersecurity activities and coordinate information sharing by working closely with federal agencies (Homeland Security, FBI, etc.). There is no timeline for Cal-CISIC to develop a statewide cybersecurity strategy.

Protections for minors seeking to purchase non-age-appropriate items online. Current law restricts sales of certain items to minors, including cigarettes or any form of tobacco, electronic cigarettes, fireworks, ammunition, and firearms. In an effort to curb the ability of minors to acquire these products online, the Legislature and Governor enacted AB 2511 by Assembly Member Chau. The bill requires, commencing January 1, 2020, any person or business selling into California, to take reasonable steps to ensure that the purchaser is of legal age at the time of purchase or delivery. The bill provides for a civil penalty of up to \$7,500 per violation.

The Governor signed the following technology bills:

Data Privacy

AB 375 (Chau) - Privacy: personal information: businesses.

This bill enacts the California Consumer Privacy Act of 2018 which, beginning January 1, 2020, grants a consumer several rights when dealing with a business. Primary among these rights, is the ability of a consumer to request that a business disclose the categories and specific pieces of personal information that it collects about the consumer, the categories of sources from which that information is collected, the business purposes for collecting or selling the information, and the categories of third parties with which the information is shared.

Chapter 55, Statutes of 2018

AB 1906 (Irwin) - Information privacy: connected devices.

Generally, each access point in a network is a potential vulnerability. As more day-to-day items are capable of accessing the internet (smart lighting, for example), the potential for unauthorized access to a network increases. This bill aims to begin addressing this issue by requiring manufacturers to, beginning January 1, 2020, equip “connected devices” with a reasonable security feature or features that are all of the following:

- Appropriate to the nature and function of the device
- Appropriate to the information it may collect, contain, or transmit

- Designed to protect the device from unauthorized access, destruction, use, modification, or disclosure

For purposes of the bill, a connected device is any device or other physical object that is capable of connecting, directly or indirectly, to the internet, and which is assigned an Internet Protocol address or Bluetooth address.

Chapter 860, Statutes of 2018

AB 2225 (Limón) - State government: storing and recording: public records.

This bill requires the Secretary of State, in consultation with the State Department of Technology, to approve and adopt appropriate uniform statewide standards for the purpose of storing and recording public records in electronic media or in a cloud computing storage service.

Chapter 535, Statutes of 2018

AB 2511 (Chau) - The Parent's Accountability and Child Protection Act.

Commencing January 1, 2020, this bill requires a person or business operating in California, which seeks to sell products or services which cannot be legally sold to minors under existing state law, to take reasonable steps to ensure that the purchaser is of legal age at the time of purchase or delivery.

Chapter 872, Statutes of 2018

SB 327 (Jackson) - Information privacy: connected devices.

This bill contains identical language to AB 1906 (Irwin) which is listed above. Additionally, this bill's enactment is contingent upon the enactment of AB 1906.

Chapter 886, Statutes of 2018

SB 1121 (Dodd) - California Consumer Privacy Act of 2018.

The California Consumer Privacy Act of 2018, which was enacted this year by AB 375 (Chau - Chapter 55, Statutes of 2018), grants a consumer various rights with regard to personal information relating to that consumer that is held by a business. This bill makes several technical and clarifying amendments to that Act, and makes several modifications to the Act with regards to sensitive medical information which is already governed by the Confidentiality of Medical Information Act.

Chapter 735, Statutes of 2018

Technology

AB 1999 (Chau) - Local government: public broadband services.

This bill establishes net neutrality rules for local governments that provide broadband services, expands the types of local agencies that may provide broadband infrastructure or services to include Community Service Districts (CSD) and Enhanced Infrastructure Finance Districts, and removes requirements on CSDs to seek out a private provider before entering the broadband market and to sell or lease their broadband facilities and services to a private provider if one subsequently enters the market.

Chapter 963, Statutes of 2018

AB 2448 (Gipson) - Juveniles: rights: computing technology.

AB 2448 provides that minors detained in or committed to a juvenile hall shall be provided access to computer technology and the Internet for purposes of education. Additionally, current law establishes that a minor or nonminor who is placed in a community care facility, a foster home or foster family agency, or the approved home of a relative or non relative, is entitled to age-appropriate extracurricular, enrichment, and social activities. This bill provides that access to computer technology and the Internet shall be considered part of that standard.

Chapter 997, Statutes of 2018

AB 2813 (Irwin) - California Cybersecurity Integration Center.

This bill establishes in statute the Cal-CSIC within the California Office of Emergency Services. The primary goal of Cal-CSIC will be to reduce the likelihood and severity of cyber incidents that could damage California's economy, its critical infrastructure, or public and private sector computer networks in the state. In order to facilitate this mission, Cal-CSIC will:

- 1) Coordinate with California State Threat Assessment System and United States Department of Homeland Security;
- 2) Develop a statewide cybersecurity strategy; and,
- 3) Establish a Cyber Incident Response Team.

Chapter 768, Statutes of 2018

ACR 268 (Thurmond) - Education technology.

This resolution states that the Legislature considers education technology to be of the highest priority and resolves that the Legislature convene a state level summit conference to address improvements in education technology and related topics.

Chapter 221, Statutes of 2018

SB 532 (Dodd) - Emergency services: state of emergency: cyberterrorism.

Current law defines the term "state of emergency" and "local emergency" to mean a duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by, among other things, fire, storm, or riot. This bill includes cyberterrorism within the conditions that constitute a state of emergency and a local emergency.

Chapter 557, Statutes of 2018

SB 822 (Wiener) - Communications: broadband Internet access service.

This bill establishes net neutrality requirements in California by prohibiting internet service providers (ISPs) operating in this state from taking actions that interfere with consumers' ability to lawfully access internet content. The activities prohibited in this bill include intentionally blocking content, speeding up or slowing down traffic, engaging in paid-prioritization, requiring consideration from edge providers for access to an ISP's end users, and selectively zero-rating certain content.

Chapter 976, Statutes of 2018

SR 74 (De León) - Relative to net neutrality.

This resolution urges the Federal Communications Commission (FCC) to reinstate the 2015 Open Internet Order, and urges the United States Congress to intervene to protect net neutrality and codify its principles in statute.

Adopted

SR 123 (Dodd) - Relative to National Cyber Security Awareness Month.

This resolution proclaims the month of October 2018, and every October thereafter, as National Cyber Security Awareness Month in the State of California.

Adopted

Capitol Advisors Group has produced a series of comprehensive client briefs detailing new education laws that were passed by the Legislature and signed into law by Governor Brown in 2018. Each brief is organized by subject area and includes an executive summary highlighting major changes we think you should know about. Bills signed by the Governor take effect on January 1, 2019, unless the bill specifically states otherwise.