UT LAW CLE THE UNIVERSITY OF TEXAS SCHOOL OF LAW

# Defining the requirement of "reasonable security" in recently effective and pending federal and state consumer data privacy laws

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## Agenda: Let's Get Reasonable!




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## Agenda

- High level review of Federal reasonable security requirements of President Biden's Executive Order, the FTC and pending American Data Privacy Protection ACT, among other federal legislation and regulation
- State privacy laws and separate pending and effective requirements for establishing a reasonable security program
- Key Developments
- Legal Requirements
- Key Affirmative Security Requirements
- Case studies to help understand what regulators consider to be a reasonable security program



# Federal Overview

## POTUS Announces "reasonable security standards"

**1. Biden's June 2021 Best Practices Memo: "What we urge you to do to protect against the threat of Ransomware"**

- Implement best practices from the President's Executive Order 14028
  - Multifactor Authentication (because passwords alone are routinely compromised0
  - Endpoint detection and response (to hunt for malicious activity on a network and to block it)
  - Encryption (so if data is stolen, it is unusable)
  - Skilled empowered security team (to patch rapidly, and share and incorporate threat information in your defenses)

2. **Backup your data, system images, and configurations, regularly test them, and keep the backups offline**



## POTUS Announces "reasonable security standards"

3. Update and Patch Systems Promptly: This includes maintaining the security of operating systems, applications and firmware, in a timely manner

4. Test your Incident Response Plan: There's nothing that shows gaps in plans better than testing them

5. Check your Security Team's work: Use a 3rd party pen tester to test the security of your systems and your ability to defend against a sophisticated attack

6. Segment your networks: There's been a recent shift in ransomware attacks – from stealing data to disrupting operations

# Title search: Reasonable Security Standards Taking Effect in 2023

Also available as part of the eCourse
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