

LITIGATION & REGULATORY UPDATE

Cybersecurity & Data Privacy

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Intro

This presentation provides a highlight of recent updates in areas of cybersecurity and data privacy law across the globe.



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United States - Updates



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State Privacy Laws

- ♦ **Connecticut* & Utah:** Signed laws that go into effect 2023 (joining California*, Colorado*, & Virginia)
- ♦ **Maryland:** Personal Information Protection Act (PIPA), [Updates](#) effective October 1, 2022
- ♦ **California:** CCPA guidance on whether a consumer has a right to know the inferences based on the consumer's personal information. →Yes [Opinion No. 20-303](#) ; California Privacy Rights Act (CPRA) [proposed](#) to update/replace CCPA, effective date January 1, 2023 and *enforceable* on July 1, 2023; California Privacy Protection Agency [notice of rulemaking](#) commenced for implementing CPRA on July 8, 2022

*law includes a universal opt-out requirement.

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Effect of the Proposed Rulemaking:

The CPRA established a new agency, the California Privacy Protection Agency, to implement and enforce the CCPA. (§ 1798.199.10.) The Agency is directed to adopt regulations to further the purposes of the Act, including promulgating regulations on 22 specific topics. (§ 1798.185.) The proposed regulations primarily do three things: (1) update existing CCPA regulations to harmonize them with CPRA amendments to the CCPA; (2) operationalize new rights and concepts introduced by the CPRA to provide clarity and specificity to implement the law; and (3) reorganize and consolidate requirements set forth in the law to make the regulations easier to follow and understand.

Page 5 of the Notice of Proposed Rulemaking published July 8, 2022

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Federal Bills

<https://iapp.org/resources/article/us-federal-privacy-legislation-tracker/>

CONSUMER PRIVACY

Title	Number/ Date introduced	Sponsor	Key Provisions	Preemption	Private right of action
Balancing the Rights of Web Surfers Equally and Responsibly Act of 2021	S.113; 1/28/2021 H.R.4659 7/22/2021	Sen. Marsha Blackburn, R-Tenn., Rep. Lisa McClain, R-Mich.	Requires broadband internet access services and some websites and mobile applications (i.e., edge services) to provide notice to users and to give users opt-in or opt-out choices regarding the use, disclosure and access to their personal information depending on its sensitivity.	☑	☒
Data Care Act of 2021	S.919 3/23/2021	Sen. Brian Schatz, D-Hawaii	Imposes various responsibilities on online service providers that collect individual identifying data about end users, including securing it from unauthorized access and preventing harm.	☒	☒
Mind Your Own Business Act of 2021	S.1444 4/29/2021	Sen. Ron Wyden, D-Ore.	Requires assessments, periodic reporting and opt-out processes by entities that operate high-risk or automated-decision making information systems, such as artificial intelligence techniques or machine learning. Applies to entities that have greater than \$50 million in annual revenue over the past three years and possess personal information on more than 1 million consumers or consumer devices. Imposes criminal penalties for false certification of annual reports by corporate officers.	☒	☑
Data and Algorithm Transparency Agreement Act	S.1477 4/29/2021	Sen. Rick Scott, R-Fla.	Requires websites, internet and mobile apps, and social networks with 30 million or more active monthly users in the U.S. that use algorithms to suggest content to provide notice to and obtain express consent from users before collecting or sharing their personal data.	☒	☑
Consumer Data Privacy and Security Act of 2021	S.1494 4/29/2021	Sen. Jerry Moran, R-Kan.	Provides consumers with rights to access, correct and delete their data; requires businesses to implement data security programs; and prohibits collection without consumers' consent. Applies to entities that "determine the purpose and means of collecting or processing personal data," including common carriers and nonprofits, but exempts service providers.	☑	☒
Social Media Privacy Protection and Consumer Rights Act of 2021	S.1667 5/18/2021	Sen. Amy Klobuchar, D-Minn.	Grants users the right to opt out of data collection and tracking, provides users with the right to access, requires "plain English" terms of service agreements, and mandates establishment of privacy and security programs. Applies to online platforms, such as websites, mobile apps, social networks and internet access services, that collect personal data.	☒	☒
Filter Bubble Transparency Act	S.2024 6/10/2021 -----	Sen. John Thune, R-S.D., Rep. Ken	Establishes requirements for online platforms that use algorithms applying AI or ML from user data to provide notice to users about such uses of data and to make a version of the platform available that allows users to see unmanipulated content. Covers	☒	☒

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