

# Texas Privacy Law Update

Presented at UT CLE's 2024 Essential of Cybersecurity Law

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1

## Texas Privacy Laws Timeline from June 2023 – September 2024

- **June 16, 2023:** The Texas Data Privacy and Security Act (TDPSA) Texas became the eleventh state to provide consumers with comprehensive privacy protections when it enacted on the TDPSA (HB 4 - Tex. Bus. & Com. Code Ann. §§ 541.001 to 541.205).
- **June 17, 2023:** Consumer Genetic Testing Law
- **June 18, 2023:** Governor Abbott signed the Texas Data Broker Law, (SB 2105 - Tex. Bus. & Com. Code Ann. §§ 509.001 to 509.010)
- **September 1, 2023:** Effective date of Texas Data Broker Law and Consumer Genetic Testing Law.
- **July 1, 2024:** The TDPSA takes effect.
- **September 1, 2024:** Securing Children Online through Parental Empowerment Act (SCOPE Act) becomes effective

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2

## Scope of Coverage of the TDP SA

- Broad - Businesses who produce products or services are “consumed by” Texans whether targeted or not
- Exemptions
  - Small Businesses under SBA Code: Guidance for how to determine “small business status”
  - Non-Profits
  - GLBA
  - HIPAA

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3

## Comparison of Business Obligations under TDP SA and other States

| State Law    | Opt-in consent for certain types of data processing | Opt-out consent for certain types of data processing | Must present users with a privacy policy (or notice) | Requires Data Protection Assessments | Outlines Contractual Obligation with Third-Party Processors | Allows for civil lawsuits or private right of action | Must honor Global Privacy Controls/browser privacy settings |
|--------------|---|--|--|--------------------------------------|---|--|---|
| TDP SA       |   | ✓  | ✓  | ✓                                    | ✓   |  | ✓   |
| CCPA/CPRA    | ✓   | ✓  | ✓  | ✓                                    | ✓   | ✓  | ✓   |
| CPA          |   | ✓  | ✓  | ✓                                    | ✓   |  | ✓   |
| CTDPA        |   | ✓  | ✓  | ✓                                    | ✓   |  | ✓   |
| DPDPA        | ✓   | ✓  | ✓  | ✓                                    | ✓   |  | ✓   |
| FDBR         |   | ✓  | ✓  | ✓                                    | ✓   |  |   |
| Indiana CDPA |   | ✓  | ✓  | ✓                                    | ✓   |  |   |
| Iowa CDPA    |   | ✓  | ✓  |                                      | ✓   |  |   |
| KCDPA        | ✓   | ✓  | ✓  | ✓                                    | ✓   |  |   |
| MN CDPA      | ✓   | ✓  | ✓  | ✓                                    | ✓   |  | ✓   |
| MT CDPA      |   | ✓  | ✓  | ✓                                    | ✓   |  | ✓   |
| MODPA        | ✓   | ✓  | ✓  | ✓                                    | ✓   |  | ✓   |
| NHDPL        | ✓   | ✓  | ✓  | ✓                                    | ✓   |  | ✓   |
| NJDPA        | ✓   | ✓  | ✓  | ✓                                    | ✓   |  | ✓   |
| OCPA         |   | ✓  | ✓  | ✓                                    | ✓   |  | ✓   |
| TIPA         | ✓   | ✓  | ✓  | ✓                                    | ✓   |  |   |
| UCPA         |   | ✓  | ✓  |                                      | ✓   |  |   |
| VCDPA        |   | ✓  | ✓  | ✓                                    | ✓   |  |   |

4

## Timeline for Effective Dates

| Currently effective   | Effective October 1, 2024                 | Effective January 1, 2025                              | Effective July 1, 2025                                | Effective October 1, 2025                | Effective January 1, 2026                           |
|---|---|--|---|--|---|
| California Consumer Protection Act (CCPA), as amended by the California Privacy Rights Act (CPRA) | Montana Consumer Data Privacy Act (MCDPA) | Delaware Personal Data Privacy Act (DPDPA) (1.1.25)    | Tennessee Information Protection Act (TIPA) (7.1.25)  | Maryland Online Data Privacy Act (MODPA) | Indiana Consumer Data Protection Act (Indiana CDPA) |
| Colorado Privacy Act (CPA)  |   | Iowa Consumer Data Protection Act (Iowa CDPA) (1.1.25) | Minnesota Consumer Data Privacy Act (MCDPA) (7.31.25) |  | Kentucky Consumer Data Protection Act (KCDPA)       |
| Connecticut Data Privacy Act (CTDPA)  |   | New Hampshire Data Privacy Law (NHDPL) (1.1.25)        |   |  |   |
| Utah Consumer Privacy Act (UCPA)  |   | New Jersey Data Privacy Act (NJDPa) (1.15.25)          |   |  |   |
| Virginia Consumer Data Protection Act (VCDPA)   |   |  |   |  |   |
| Florida Digital Bill of Rights (FDBR)   |   |  |   |  |   |
| Oregon Consumer Privacy Act (OCPA)  |   |  |   |  |   |
| Texas Data Privacy and Security Act   |   |  |   |  |   |

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5

## Overview of the Texas Office of Attorney General Data Privacy & Security Enforcement Team

- Esther
  - What is the Scope of the Team's Enforcement Authority?
    - TDPSA
    - Texas Identity Theft Enforcement and Protection Act (Data Breach Notification Law)
    - Data Broker Law
    - Consumer Genetic Testing Law
    - Biometric Identifier Act – Texas Capture or Use of Biometric Identifier (CUBI")
    - Texas Deceptive Trade Practices Act
    - Securing Children Online through Parental Empowerment Act (SCOPE Act)
    - Federal laws
      - Children's Online Privacy Protection Act
      - Health Insurance Portability and Accountability Act

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6

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