

SEPTEMBER 2024

UT LAW CLE

 **TEXAS Law**
The University of Texas at Austin
School of Law

PRIVACY LAW UPDATES:

Other States and International

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 **TEXAS Law**

Overview of State Privacy Laws

- 19 states with signed comprehensive data privacy laws
 - CA; CO; CT; DE; IN; IA; **KY**; **MD**; **MN**; MT; **NE**; **NH**; **NJ**; OR; **RI**; TN; TX; **UT**; VA
 - 8 signed into law within the past year
- 189 total comprehensive privacy bills introduced between 2018 and 2023
- CA and CO provide rulemaking authority to AG or enforcement agency
- No restrictions on international data transfers

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Overview of State Privacy Laws

- Definitions: personal data/personal information; health data; biometric data; children's data; sales
- Obligations:
 - Data processing records (CA – maintain records of consumer requests)
 - Data Protection Impact Assessments
 - Data retention
 - Vendor contracts
 - Processing restrictions
 - Data security
- Consumer Rights:
 - Right to know
 - Right to access
 - Right to correct (most - excludes IA and UT)
 - Right to deletion
 - Right to object to certain processing
 - Right to data portability
- Exemptions:
 - Entity level (e.g., entities regulated by HIPAA)
 - Data level (e.g., data regulated under HIPAA)

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Overview of State Privacy Laws

- RI (eff. Jan 1, 2026) –no right to cure (sign of future laws?)
- DE (eff. Jan 1, 2025) – low applicability threshold of 35,000 consumers or data of 10,000 consumers with over 20% of gross revenue derived from personal data sales
- TX (eff. July 1, 2024) – broad applicability – any processing of data or any sale of data (however, excludes small businesses)
- MD (eff. Oct 1, 2025) – restriction on selling or processing sensitive data with certain exceptions;
- CO (eff. July 1, 2023) – applies to non-profits

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Texas

- Texas Data Privacy and Security Act
- Effective July 1, 2024
- Sets Texas standard for the collection, use, processing, and treatment of consumers' personal data
- Enforcement: Texas Attorney General

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United States - Federal

- American Privacy Rights Act of 2024 (H.R. 8818)
 - Introduced on June 25, 2024 (currently in Committee)
 - Scope: businesses subject to FTC authority; common carriers; nonprofits (excludes certain small businesses)
 - Purpose: "to provide Americans with foundational data privacy rights, create strong oversight mechanisms, and establish meaningful enforcement . . ."
 - Requires data minimization, privacy by design, transparency, opt out rights, data security
 - Exclusions: less than \$40mm revenue; processing data of less than 200,000 individuals; and not earn revenue from transfer of covered data
 - Preempts state law, with certain exceptions; some existing federal privacy laws are preserved
 - Includes private right of action
 - Enforcement: FTC, state attorneys general or chief consumer protection officers, authorized officer or office of the state

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First appeared as part of the conference materials for the
2024 Essential Cybersecurity Law session

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