

Models of State Privacy Legislation

Thirteen states have enacted comprehensive consumer privacy laws that create new rights for consumers, impose obligations on businesses that handle consumers' personal data, and create new mechanisms to enforce those laws. Twelve of those states adopt the same basic structural model to protect consumer privacy. Some of those states have added greater substantive protections to that basic structural model while other states have adapted the same model to create narrower substantive protections, as reflected in the chart below. In contrast, California adopted a legislative model that creates a new state privacy agency charged with issuing regulations on more than 20 topics, including on issues addressed by statute in other states.

Included
 Similar obligation included
 Rulemaking required
 Provision expires

| | CA Model | Greater Substantive Protections | | | | | Baseline Protections | | | | | Narrower Substantive Protections | |
|---|-----------------------------|---------------------------------|----------|----------|----------|----------|----------------------|----------|----------|----------|----------|----------------------------------|----------|
| | CA | CO | CT | DE | MT | OR | FL* | IN | TN | TX | VA | IA | UT |
| CONSUMER RIGHTS | | | | | | | | | | | | | |
| Access | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Correct | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Delete | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Portability | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Opt out of sale | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Opt out of targeted advertising | Similar obligation included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Opt out of profiling | Rulemaking required | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| OBLIGATIONS ON BUSINESSES | | | | | | | | | | | | | |
| Affirmative consent required to process sensitive data | Rulemaking required | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Reasonable security measures | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Data minimization | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Data protection assessments | Rulemaking required | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Prohibition on obtaining consent through "dark patterns" | Rulemaking required | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Prohibition on processing data in violation of anti-discrimination laws | Rulemaking required | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Mandatory recognition of universal opt-out mechanisms | Rulemaking required | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Prohibition on retaliating against consumers who exercise rights | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |
| Appeals process required for denial of consumer rights requests | Rulemaking required | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included | Included |

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|--|---------------|---------------------------------|--------|--------|---------|--------|--------|----------------------|--------|--------|--------|--------|----------------------------------|--|
| | CA | CO | CT | DE | MT | OR | FL* | IN | TN | TX | VA | IA | UT | |
| OBLIGATIONS ON SERVICE PROVIDERS/PROCESSORS | | | | | | | | | | | | | | |
| Specific obligations placed on service providers/processors, including requiring them to process data pursuant to a contract | | | | | | | | | | | | | | |
| Duty of confidentiality imposed on service providers/processors | | | | | | | | | | | | | | |
| Requirement to delete or return all personal data at the end of services | | | | | | | | | | | | | | |
| Provide necessary information to the business/controller for data protection assessments | | | | | | | | | | | | | | |
| SCOPE OF LAW | | | | | | | | | | | | | | |
| Excludes employees | | | | | | | | | | | | | | |
| Applies to nonprofits, in addition to businesses | | | | | | | | | | | | | | |
| ENFORCEMENT | | | | | | | | | | | | | | |
| No private right of action for privacy violations | | | | | | | | | | | | | | |
| Attorney General enforcement | | | | | | | | | | | | | | |
| New state agency created to enforce law | | | | | | | | | | | | | | |
| Agency rulemaking required | | | | | | | | | | | | | | |
| Right to cure | | | | | | | | | | | | | | |
| EFFECTIVE DATE | | | | | | | | | | | | | | |
| Effective Date | 1/1/20 (CCPA) | 7/1/23 | 7/1/23 | 1/1/25 | 10/1/24 | 7/1/24 | 7/1/24 | 1/1/26 | 7/1/25 | 7/1/24 | 1/1/23 | 1/1/25 | 12/31/23 | |
| | 1/1/23 (CPRA) | | | | | | | | | | | | | |
| Universal Opt-Out Mechanism Effective Date | 1/1/20 (CCPA) | 7/1/24 | 1/1/25 | 1/1/26 | 1/1/25 | 1/1/26 | | | | 1/1/25 | | | | |
| | 1/1/23 (CPRA) | | | | | | | | | | | | | |

* Florida's coverage thresholds are higher than those in other state privacy laws and apply to a more limited set of companies.