

2022 State Privacy Legislation

- As in 2021, comprehensive consumer data privacy continued to be a top legislative topic in 2022, with bills considered in 30 states.
- Two additional states, Connecticut and Utah, enacted comprehensive consumer privacy laws in 2022, bringing the total to five states.
- California has started its formal process to develop regulations on more than 20 topics addressed by the California Privacy Rights Act (CPRA), while Colorado is set to formally begin its rulemaking process in the fall of 2022.
- Florida, Indiana, Iowa, Maryland, Oklahoma, Washington, and Wisconsin all had serious legislative discussion on consumer privacy and were able to move a bill through at least one chamber.
- Despite not passing a chamber, serious conversations about consumer privacy were held in Alaska, Kentucky, Louisiana, Massachusetts, and Ohio.

2022 STATE PRIVACY TRENDS

BIPARTISAN SUPPORT FOR PRIVACY LEGISLATION

Lawmakers in both parties demonstrated strong interest in comprehensive data privacy legislation with both Republican-controlled (UT) legislature and Democratic-controlled (CT) legislature enactments.

ENFORCEMENT REMAINS A KEY COMPONENT

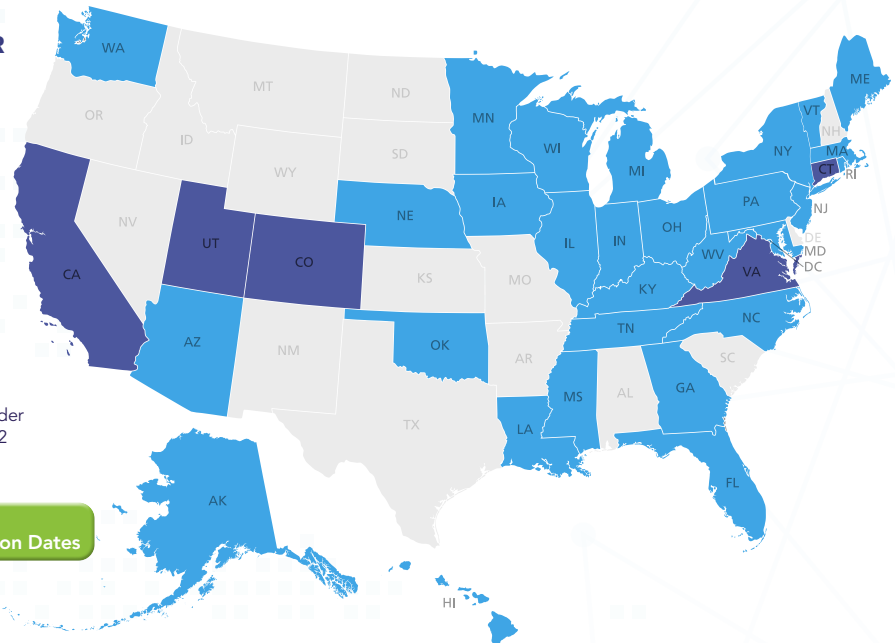
States weighing privacy legislation continue to agree that a comprehensive privacy bill should include consumer privacy rights and meaningful obligations on businesses to handle data in line with consumer expectations. However, disagreements over enforcement mechanisms prevented several states from enacting privacy laws, including in both Republican-controlled Florida and Democratic-controlled Washington. BSA remains engaged with lawmakers on the full range of privacy issues as states seek to address privacy legislation, including encouraging lawmakers to establish clear definitions and strong obligations for both controllers and processors.

STATE CONSUMER PRIVACY LAWS AND BILLS 2022

KEY

- States with consumer privacy laws
- States that considered consumer privacy bills in 2022
- States that did not consider consumer privacy in 2022

[CLICK HERE TO VIEW 2023 Legislative Session Dates](#)



TWO STATES ENACTED CONSUMER CONSUMER PRIVACY LAWS IN 2022

Utah

Utah enacted a comprehensive privacy law in March 2022. The law is narrower than other state privacy laws and provides a more limited set of consumer rights (with no right to correction or right to opt out of profiling), a more limited set of obligations on controllers (including only requiring controllers to provide opt-out rights to consumers when collecting sensitive data), and a more limited set of obligations on processors (including no audit requirements for processors). The state's Commerce Department will investigate violations and refer them to the state Attorney General for enforcement.

Connecticut

On May 10, 2022, Connecticut became the fifth state to enact a consumer privacy law. Connecticut's privacy law is similar to Colorado's law; both create a broad set of consumer rights, and a broad set of obligations on businesses including requiring controllers to obtain consent before processing a user's sensitive personal data and creating a set of processor-specific obligations. Connecticut and Colorado also both prohibit the use of "dark patterns" to obtain consent and will require controllers to honor global opt out mechanisms.

STATES' RULEMAKING ACTIVITIES

COLORADO

BSA remains engaged with the Attorney General, as rulemaking begins in Colorado in the Fall of 2022. Colorado enacted its comprehensive consumer privacy legislation in July 2021; it takes effect on July 1, 2023. The Colorado law draws on both the Virginia law and on the draft Washington Privacy Act. The Colorado Attorney General's rulemaking is expected to address universal opt-out requirements, among other topics.

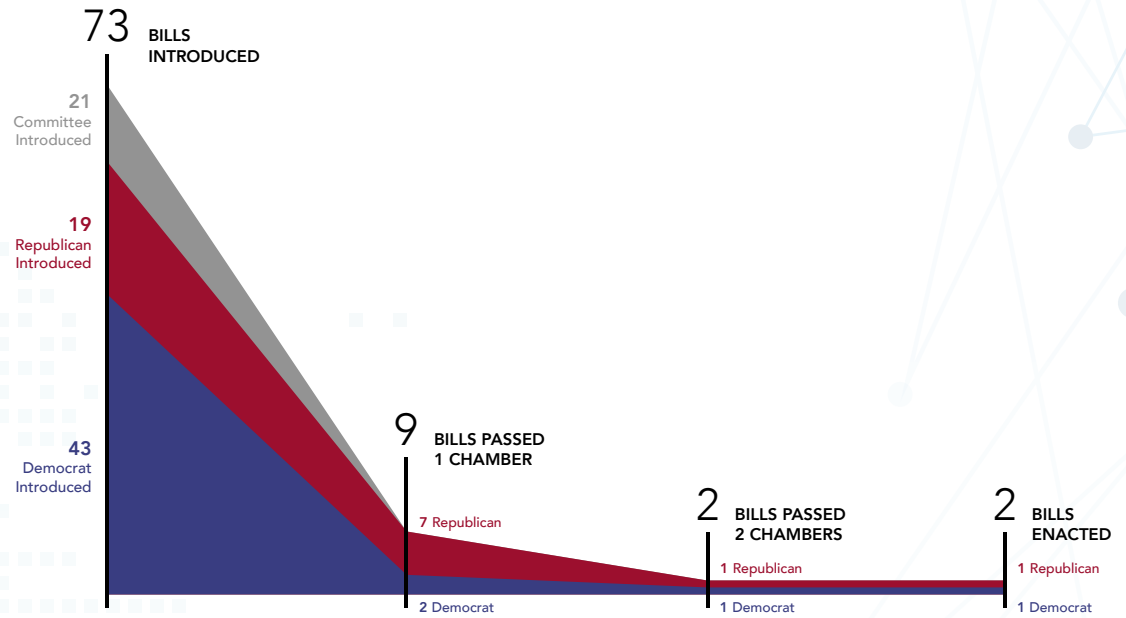
VIRGINIA

Virginia passed several amendments to tweak its consumer privacy law, including exempting non-profits from the law and narrowing the right to delete. Virginia's comprehensive consumer privacy law was signed into law in March 2021 and takes effect on January 1, 2023.

CALIFORNIA

California remains very active in consumer privacy rulemaking, despite the California Privacy Protection Agency missing its July 1, 2022, deadline for finalizing its rules. The rulemaking process will likely continue into 2023, as a draft set of rules were published in summer 2022. California continues to have an outsized role in national politics, as the California Privacy Protection Agency formally voted to oppose federal privacy legislation that would preempt the state's law.

2022 CONSUMER PRIVACY BILL PROGRESSIONS



ONGOING CONSUMER PRIVACY EFFORTS

Florida Continues

Representative Fiona McFarland (R) in 2022 introduced a comprehensive consumer data privacy bill, based largely on the state's 2021 privacy bill. The Florida House progressed the legislation but similar legislation introduced by Senator Jennifer Bradley failed to gain momentum in the Florida Senate. While talks progressed throughout the session, there was continued contention over the method of implementation and enforcement. In 2023, there will be new House and Senate Leadership in Florida, which will alter the dynamics of the last two years, although the sponsors will likely remain.

Washington Tries Again

Washington Senator Reuven Carlyle (D) reintroduced the Washington Privacy Act ("WPA") at the outset of the state's 2022 session, after soliciting additional stakeholder feedback on prior versions of the bill. However, much of the privacy legislation discussion focused on HB1850, by Representative Vandana Slatter. Late in the Session, key sponsors and the Governor's office attempted to link Senator Carlyle's bill and Representative Slatter's bill together requiring the passage of one for the other to become effective, but ultimately no privacy legislation passed in Washington. Senator Carlyle is not seeking reelection, but in his retirement speech he noted regretted not passing the WPA.

Ohio Efforts Stall

Despite multiple hearings and an informal passage from the Ohio House of Representatives, HB376, Ohio's Privacy Act, lost momentum in May 2022. The primary sponsor retired from the legislature so the future of the legislation is yet to be determined.

FOR MORE INFORMATION CONTACT:

Tom Foulkes | Senior Director, State Advocacy | tomf@bsa.org

Abigail Wilson | Manager, State Advocacy | abigailw@bsa.org

www.bsa.org