



New state privacy laws enforceable in 2023

In 2023, at least five new “rights-based” data privacy laws will become enforceable in the United States at the state level, including the California Privacy Rights Act (CPRA). These laws differ from traditional data protection laws in that they confer a set of rights to individuals, such as the right to a copy of personal data held by businesses and the right to have it corrected or deleted. The first of these laws, the California Consumer Privacy Act (CCPA), was passed into law in June of 2018, shortly after its model, the EU General Data Protection Regulation (GDPR), went into force.

These new laws reflect the changing landscape of data protection. Three of them, for example, require businesses to address the matter of compliance with so-called Global Privacy Control signals, browser-based signals that proactively indicate that a consumer does not wish to be tracked online. All

feature special rules when employing third-party data processors, mandates for cybersecurity controls, and the explicit or implicit necessity to conduct risk assessments.

The development of rights-based privacy laws continues at the state level while Congress debates the elements of a potential federal privacy law. Given that roughly 50 such bills have already been considered at the state level during the 2022 legislative session, Congress may find its options limited if it's not able to act decisively before the end of the year.

Did we miss something? Do you have comments or questions about this document? Send them to: data.protection@spirion.com

		CALIFORNIA CPRA ¹		VIRGINIA VCDPA ²		COLORADO CPA ³		CONNECTICUT CTDPA ⁴		UTAH UCPA ⁵	
		<i>In Force »</i>		<i>January 1, 2023</i>		<i>July 1, 2023</i>		<i>July 1, 2023</i>		<i>December 31, 2023</i>	
Applicability	Extraterritorial scope	I	See § 1798.140(d)(1)	I	§ 59.1-572 (A)	I	§ 6-1-1304(1)(a)	I	§ 2	I	§ 13-61-102(1)(a)(i)
	Applies to Government Agencies and Non-Profits	N	§ 1798.100 ⁶	N	§ 59.1-572 (B)	N	§ 6-1-1304(2)(o)	N	§ 3	N	§ 13-61-102 (2)
Personal Data / Personal Information	Addresses "special" or "sensitive" personal information?	Y	§ 1798.140(ae)	Y	§ 59.1-574(A)(5)	Y	§ 6-1-1308(7)	Y	§§ 1(27), 6(a)(4)	Y	§§ 13-61-101(32)(a), 13-61-302(3)
	Applies to employee/HR data?	N ⁷	But see § 1798.145(m)	N	§ 59.1-571	N	§ 6-1-1304(2)(k)	N	§ 1(7)	N	§ 13-61-101(10)(b)
	Special rules for children?	Y	§ 1798.199.55(a)(2); §§ 1798.120(c) and (d)	Y	§ 59.1-574(A)(5)	Y	§ 6-1-1308(7)	L	§ 1(27)	N	§ 13-61-102(3)
	Can machine-readable data be considered personal?	I	§ 1798.140(ae)(1)(E)	I	§ 59.1-571	I	§ 6-1-1303(16)	I	§§ 1(18) and (19)	I	§ 13-61-101(24)(a)

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Marketing / Advertising	"Opt out" or "opt in" for marketing?	Opt Out	§§ 1798.121 and 120(b)	Opt Out	§ 59.1-573(A)(5)	Opt Out	§ 6-1-1306(1)(a); see also § 6-1-1313	Opt Out	§ 4(a)(5)	Opt Out	§ 13-61-201(4)(a)
	Special rules for cookies or other tracking tools?	N	But see CCPA Regulations § 999.315(a)	N		N		N	But see § 4(a)(5); see also § 6(e)(1)(A)(i)	N	But see § 13-61-201(4)(a)
	Honor browser "Global Privacy Control" signals?	N	But see CCPA Regulations § 999.315(a); see also §§ 1798.185(19) and (20)	N		I	§ 6-1-1306(1)(a)(II); see also § 6-1-1313	Y	§ 6(e)(1)(A)(ii)	N	
Information Security and Integrity	Mandates information security?	Y	§§ 1798.100(e) and 150(a); See also § 1798.81.5	Y	§ 59.1-574(A)(3)	Y	§ 6-1-1308(5)	Y	§ 6(a)(3)	Y	§ 13-61-302(2)(a)(i)
	Mandates risk assessments?	Y	§ 1798.185(a)(15); See also §§ 1798.100(e) and 150(a)	Y	§ 59.1-576	Y	§ 6-1-1309(1)	Y	§ 8(a)	L	§ 13-61-302(2)(a)(ii)
	Mandates breach notification for data owners?	I	See § 1798.82(a)	N	But see Va. Code Ann. § 18.2-186.6	N	But see Colo. Rev. Stat. § 6-1-716	N	But see § 36a-701b of the state's general statutes	N	But see § 13-44-202
	Mandates breach notification for processors / service providers?	N	But see §§ 1798.100(d) and 1798.82(b)	Y	§ 59.1-575(A)(2)	Y	§ 6-1-1305(2)(b)	Y	§ 7(a)(2)	Y	§ 13-61-301(1)(b)
	Privacy by Design?	N		N		N		N		N	
	Mandates data quality?	N		N		N		N		N	
	Mandates data minimization?	N	But see §§ 1798.100(a)(3) and (c)	N	But see § 59.1-574(A)(1)	Y	§ 6-1-1308(3)	N		N	
Personal Data / Personal Information	Right to access personal information	Y	§ 1798.130; See also §§ 1798.100, 110, and 115	Y	§ 59.1-573(A)(4)	Y	§ 6-1-1306(1)(b)	Y	§ 4(a)(1)	Y	§ 13-61-201(1)
	Right to amend/ correct personal information?	Y	§ 1798.106	Y	§ 59.1-573(A)(2)	Y	§ 6-1-1306(1)(c)	Y	§ 4(a)(2)	N	
	Right to erasure / deletion?	Y	§ 1798.105	Y	§ 59.1-573(A)(3)	Y	§ 6-1-1306(1)(d)	Y	§ 4(a)(3)	Y	§ 13-61-201(2)
Individual Rights	Right to access personal information	Y	§ 1798.130; See also §§ 1798.100, 110, and 115	Y	§ 59.1-573(A)(4)	Y	§ 6-1-1306(1)(b)	Y	§ 4(a)(1)	Y	§ 13-61-201(1)
	Right to amend/ correct personal information?	Y	§ 1798.106	Y	§ 59.1-573(A)(2)	Y	§ 6-1-1306(1)(c)	Y	§ 4(a)(2)	N	
	Right to erasure / deletion?	Y	§ 1798.105	Y	§ 59.1-573(A)(3)	Y	§ 6-1-1306(1)(d)	Y	§ 4(a)(3)	Y	§ 13-61-201(2)

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Data Controller / Business Mandates	Legal basis required for collecting personal information?	N	<i>But see</i> § 1798.121	N	N	N
	Transparency of privacy practices?	Y	§§ 1798.100, 110, and 115	Y	§ 6-1-1308(1)(a)	Y
	Collect, process, and retain only data that is necessary?	Y	§§ 1798.100(a)(3) and (c)	Y	§ 6-1-1308(3)	N
	Special rules for data processors / service providers?	L	§§ 1798.100(d) and 140(ag) and (j)	Y	§ 6-1-1305(2)	Y
	Restrictions on cross-border transfers?	N	<i>But see</i> § 1798.100(d)	N	N	N

Y = Yes

N = No

I = Implied

L = Limited Applicability

¹ The California Privacy Rights Act of 2020, Cal. Civ. Code §§ 1798.100 – 1798.199, as amended

² Consumer Data Protection Act, Va. Code Ann. §§ 59.1-571 – 59.1-581

³ Colorado Privacy Act, C.R.S. § 6-1-1301, et seq.

⁴ Public Act No. 22-15

⁵ Utah Code Annotated § 13-61-101, et seq.

⁶ Theoretical applicability to non-profits in certain cases

⁷ Exemption expires January 1, 2023

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