



State Consumer Privacy Laws: Navigating the Terrain

A growing public awareness regarding how the explosion of "big data" has enabled companies to understand more about their likely consumers than ever before has led to seismic shifts in consumer expectations as well as in federal, state and international data protection laws. Consumers in a number of jurisdictions now have certain rights to transparency regarding the information that an organization maintains about them and to control how the information is used by the organization. Organizations are also facing broad obligations to use consumer information responsibly and to be thoughtful in their management and use of the information throughout the data life cycle.

The following charts provide a "cheat sheet" to the five consumer data privacy laws that have been enacted in the United States.¹ These charts are intended for informational purposes only and are not intended to provide legal advice.

OVERVIEW

Overview					
	California	Virginia	Colorado	Utah	Connecticut
Effective	California Privacy Rights Act (CPRA) fully effective Jan. 1, 2023	Jan. 1, 2023	July 1, 2023	Dec. 31, 2023	July 1, 2023
Private Right of Action	✓ Data breach only	✗	✗	✗	✗
Notice At/Before Collection	✓	✓	✓	✓	✓
Opt-In Default for Sensitive Personal Information (SPI)	✗ Opt-out	✓	✓	✗ Opt-out	✓
Consumer Rights	✓	✓	✓	✓	✓
Employee and Business-to-Business (B2B) Contact Rights	✓	✗	✗	✗	✗
Data Governance Requirements	✓ Scope unclear; Regulations TBD	✓	✓	✗	✓
Vendor Contract Requirements	✓	✓	✓	✗	✓

¹ As of the date of publication (May 3, 2022), the Connecticut legislation had been passed by both chambers of the legislation but had not yet been signed by the state's governor.



CONSUMER RIGHTS

Consumer Rights					
	California	Virginia	Colorado	Utah	Connecticut
Know / Access	✓	✓	✓	✓	✓
Correction	✓	✓	✓	✗	✓
Deletion	✓ Limited to data obtained from the consumer	✓	✓	✓ Limited to data obtained from the consumer	✓
Restrict Sensitive Personal Information (SPI) Processing	✓	✓	✓	✓	✓
Opt-Out of Sales/Sharing/ Targeted Advertising	✓	✓	✓	✓	✓
Opt-In for Sales/Sharing/ Targeted Advertising for Minors	✓ To age 16	✓ To age 13	✓ To age 13	✓ To age 13	✓ To age 16
Opt-Out of Profiling/ Automated Decision-making		✓	✓	✗ Silent	✓
Non-Discrimination	✓	✓	✓	✓	✓



REQUEST SUBMISSION AND HANDLING

Request Handling					
	California	Virginia	Colorado	Utah	Connecticut
Requests Must Be Verified	✓ Except opt-out/restrict SPI	✓	✓	✓	✓
Requires Separate "Opt-Out" Page	✓	✗	✓	✗	✓
Honor User-Enabled Browser Control	✓	✗	✓ By July 1, 2024	✗	✓ By Jan. 1, 2025
Accept Requests from Authorized Agents	✓	✗	✓ Opt-out only	✗	✓ Opt-out only
Timeline to Respond to Consumer Rights Requests	45 days, but 10 days for opt-out	45 days	45 days	45 days	45 days
Consumer Can Appeal Handling of Consumer Rights Request	✗	✓	✓	✗	✓



INFORMATION GOVERNANCE

Information Governance					
	California	Virginia	Colorado	Utah	Connecticut
Data Minimization	✓	✓	✓	✗	✓
Purpose and Use Limitations	✓	✓	✓	✗	✓
Disclose Retention Periods	✓	✗	✗	✗	✗
Data Privacy Impact Assessments	✓ Scope unclear; Regulations TBD	✓	✓	✗	✓
Reasonable Security	✓	✓	✓	✓	✓



ENFORCEMENTS

Civil Enforcement					
	California	Virginia	Colorado	Utah	Connecticut
Regulator	California Privacy Protection Agency	Attorney General	Attorney General and District Attorneys	Attorney General	Attorney General
Civil Penalties / Administrative Fines	\$2,500 - \$7,500	Up to \$7,500, plus reasonable investigation and attorney expenses	Up to \$20,000 per violation under Colorado Consumer Protection Act	Actual damages to the consumer and \$7,500 per violation in civil penalties	Up to \$5,000 under CT Unfair Trade Practice Act, plus actual and punitive damages, costs, and reasonable attorneys' fees
Cure Opportunity	✗ Regulatory cure period eliminated in California Privacy Rights Act (CPRA)	✓ 30-day cure period	✓ 60-day cure period through 2024	✓ 30-day cure period	✓ 60-day cure period through 2024; In 2025, cure opportunity at discretion of attorney general
Rulemaking Authority for Regulator	✓	✗	✓	✗	✗ Working group to study potential amendments
Regulator May Issue Guidance	✗ Eliminated in CPRA	✗	✓	✗	✗



HOW HOLLAND & KNIGHT CAN HELP

Holland & Knight's technology and data attorneys take a holistic approach to these issues. We partner with clients on assessing and designing data flows to maximize data value while minimizing information risk. We provide "product counseling advice" to clients on a range of issues, against the backdrop of new U.S. laws, changing consumer expectations, and the European Union's General Data Protection Regulation (GDPR) and other international requirements. Our areas of support include product counseling, privacy transactions, privacy program management, data governance, cybersecurity counseling and cyber insurance advice.

CONTACT US

The below contacts are just a subset of our team, which is backed by a broader array of attorneys with substantial skillsets and capabilities. With dozens of attorneys in our practice, supported by Holland & Knight's more than 1,600 lawyers, we have an extensive presence that reaches nearly every U.S. jurisdiction, with 26 offices from California to Florida.



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