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Trends in State Privacy Laws

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Speaker



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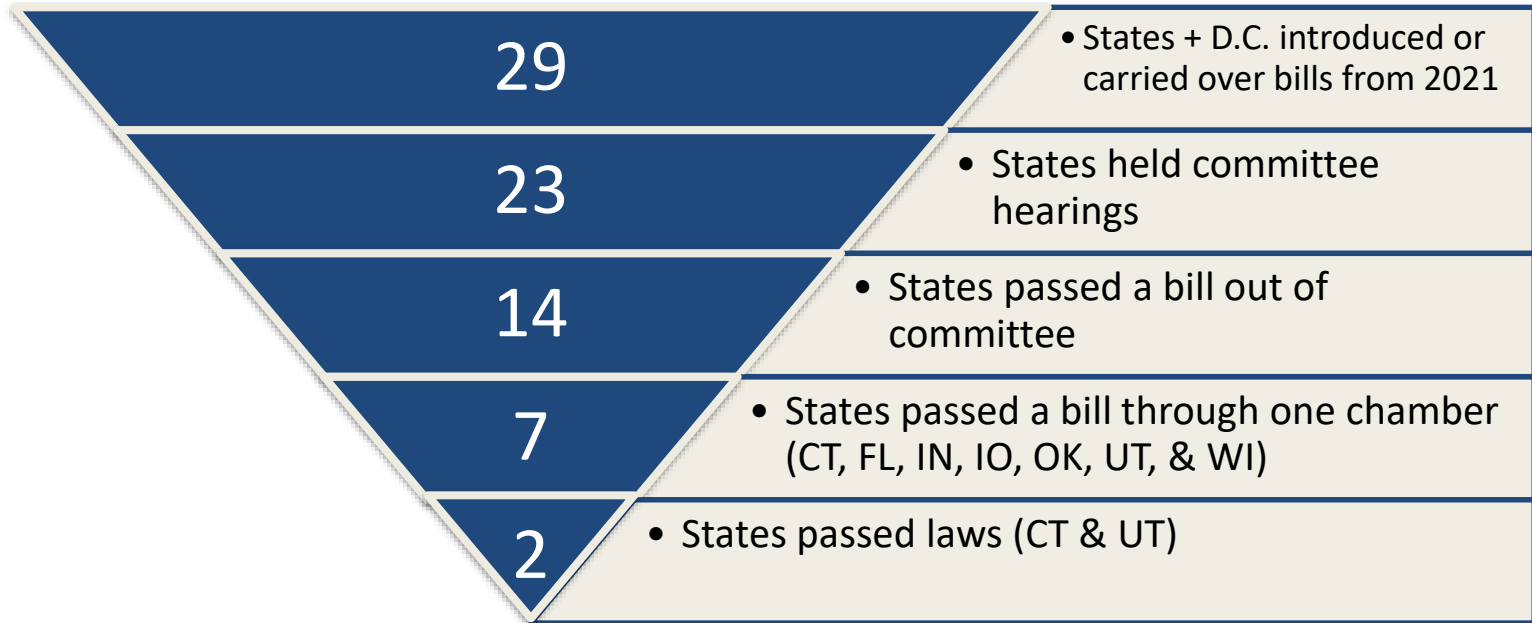


Roadmap

1. Overview of 2022 Session
2. Brief Comparison of Passed Laws
3. Status of California and Colorado
4. American Data Privacy & Protection Act
5. Resources

Overview of 2022 Session

By the numbers



Takeaways

Emergence of model law (with variants)

- Using 2021 Washington Privacy Act as model
- Colorado, Connecticut, Utah and Virginia have passed variants

Push for business-friendly variants

- Indiana, Iowa, Kentucky, Louisiana, Tennessee, and Wisconsin
- One bill passed in Utah
- Targeting Republican-controlled legislatures

Uniform Law Commission Model Law

- Failed to catch on
- Bills proposed in three states but did not move forward

Brief Comparison of Passed Laws

Applicability

Law	\$	# Consumers	Population
CCPA	\$25,000,000	50,000 consumers, households or devices	39.2 million
CPRA	\$25,000,000	100,000 consumers or households	39.2 million
Virginia	N/A	100,000 consumers	8.6 million
Colorado	N/A	100,000 consumers	5.8 million
Utah	\$25,000,000 (+ another category)	100,000 consumers	3.3 million
Connecticut	N/A	100,000 consumers	3.6 million

Applicability

Law	Data Broker
CCPA	Derives 50% or more of annual revenues from selling consumers' personal information
CPRA	Derives 50% or more of annual revenues from selling <i>or sharing</i> consumers' personal information
Virginia	Derives over 50% of gross revenue from sale of personal data + control or process personal data of at least 25,000 consumers
Colorado	Derives revenue or receives a discount on the price of goods or services from the sale of personal data + processes or controls the personal data of 25,000 or more consumers
Utah	Derives over 50% of gross revenue from sale of personal data + controls or processes personal data of 25,000 or more consumers
Connecticut	Derives more than 25% of gross revenue from sale of personal data + control or process personal data of not less than 25,000 consumers

Rights

Right	CPRA	VCDPA	CPA	UCPA	CTDPA
Know / Confirm	✓	✓	✓	✓	✓
Access	✓	✓	✓	✓	✓
Data portability	✓	✓	✓	✓	✓
Deletion	✓	✓	✓	✓	✓
Correct inaccuracies	✓	✓	✓	✗	✓
Not be discriminated against	✓	✓	✓	✓ (controller may offer different price, quality, selection, etc. if consumer opts out of targeted advertising)	✓

Rights

Right	CPRA	VCDPA	CPA	UCPA	CTDPA
Opt-out of sale	✓	✓	✓	✓	✓
Opt-out of targeted advertising / sharing	✓	✓	✓	✓	✓
Opt-out of certain types of profiling	✓	✓	✓	✗	✓
Recognize opt out signals	✓	✗	✓	✗	✓

Sensitive Data

Consent

- Colorado, Connecticut and Virginia

Limit Use of Sensitive Data to Certain Processing Activities

- California

Notice and Opportunity to Opt Out

- Utah

Biometric Data

Virginia

- Restrictive definition
- Excludes facial recognition

Connecticut

- Most expansive definition

Colorado

- Does not define term
- Could be dealt with during Attorney General rulemaking

Enforcement

No Private Right of Action

- Except for certain types of data breaches in California

Attorney General Enforcement

- Colorado (+ district attorneys), Connecticut, Utah, and Virginia

Agency and Attorney General Enforcement

- California

Right to Cure

California

- 30 day right to cure; sunsets January 1, 2023

Colorado

- 60 day right to cure; sunsets January 1, 2025

Connecticut

- 60 day right to cure; sunsets December 31, 2024

Utah and Virginia

- 30 day right to cure

Rulemaking

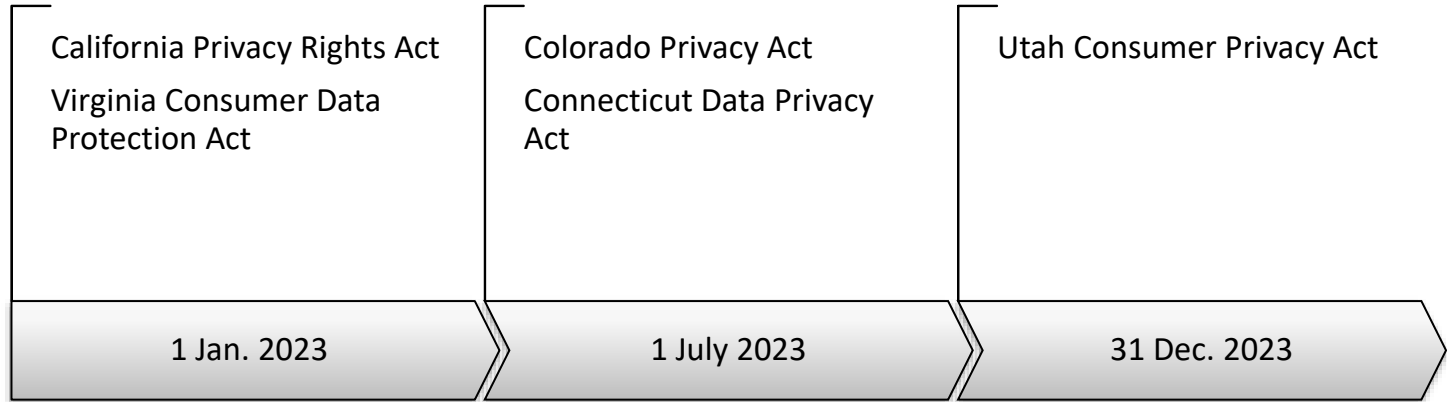
Yes

- California and Colorado

No

- Connecticut, Utah and Virginia

Effective Dates



Status of California and Colorado

California

Legislature closes August 31

- Multiple bills to amend CCPA/CPRA under consideration, including extensions of business-to-business and employee exemptions

CPRA rulemaking is delayed

- Formal rulemaking started July 8
- Rulemaking was supposed to be finished July 1

Colorado

Colorado Privacy Act rulemaking yet to commence

Attorney General's office held two public input sessions in June

Office is accepting pre-rulemaking comments through August 5

Formal rulemaking expected to start in Fall

American Data Privacy & Protection Act

American Data Privacy & Protection Act

“Three corners bill”

- Lacks support of Senator Maria Cantwell (Chair of the Senate Committee on Commerce, Science & Technology)

Reported out of House Committee on Energy & Commerce on July 20

- Eligible for full House floor vote
- Congress is in recess during August

Fate uncertain

- November election likely will lead to change in Republican leadership on Senate Commerce Committee

Webinar

A promotional banner for a webinar. The background features a city skyline at dusk with a network of white lines and nodes overlaid. Several circular icons are scattered across the scene: a smartphone, a Wi-Fi signal, a house, and a medical cross. In the top right corner, there is a blue box with a white icon of a person at a computer and the word 'WEBINAR' in white capital letters. On the left side, a white box contains the following text: 'ANALYZING THE AMERICAN DATA PRIVACY AND PROTECTION ACT (H.R. 8152)' in bold blue letters, followed by 'August 18, 2022' in a smaller blue font, and a blue button with the text 'REGISTER NOW' in white. The 'HUSCH BLACKWELL' logo is positioned in the bottom right corner of the banner.

WEBINAR

**ANALYZING THE
AMERICAN DATA
PRIVACY AND
PROTECTION ACT
(H.R. 8152)**

August 18, 2022

REGISTER NOW

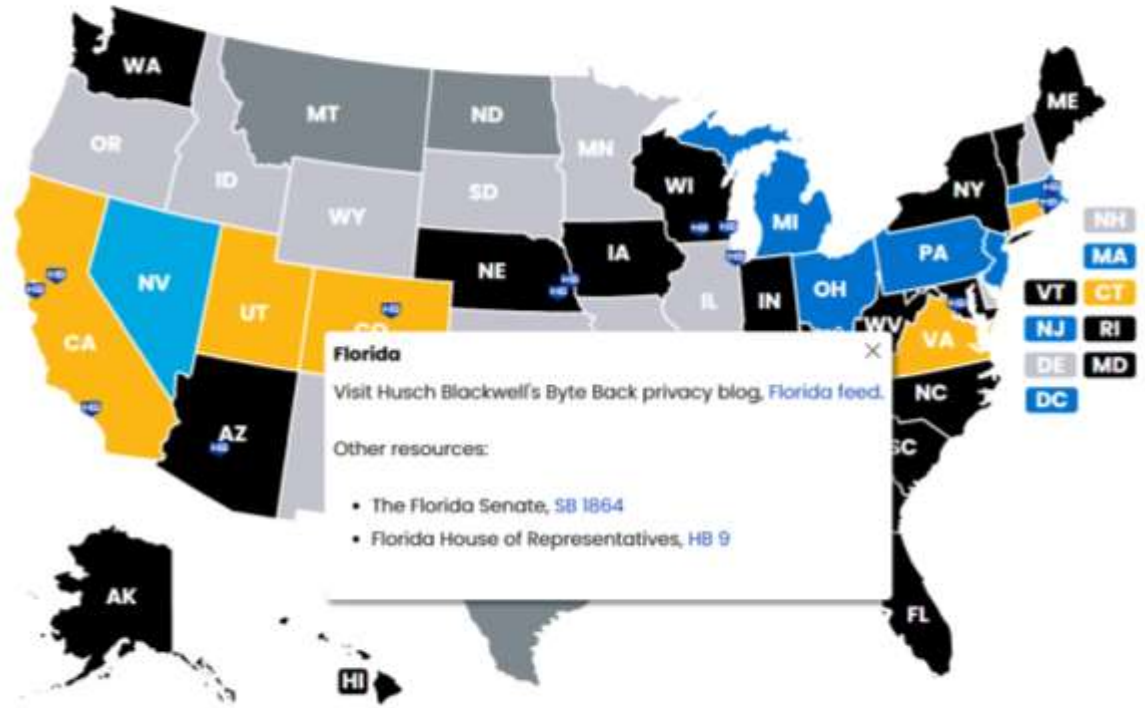
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Resources

2022 State Privacy Law Tracker

2022 State Privacy Law Tracker

Click the states to view various resources.



Webinars

- Analyzing the California Privacy Rights Act Draft Regulations
- Analyzing the Connecticut Data Privacy Act
- What is the Utah Consumer Privacy Act?
- U.S. Privacy Law Update: Tracking Proposed State Privacy Legislation
- Analyzing the Colorado Privacy Act
- Analyzing the Virginia Consumer Data Protection Act



Weekly Updates

Byte Back

Husch Blackwell's Data Privacy and Cybersecurity Legal Resource

Proposed State Privacy Law Update: May 16, 2022

By [David Stauss](#) on May 15, 2022

POSTED IN [STATE PRIVACY LEGISLATION](#)

Keypoint: *This week the Connecticut Data Privacy Act was signed by the Governor, making Connecticut the fifth state to pass consumer data privacy legislation.*

Below is our eighteenth – and final – weekly update on the status of proposed state privacy legislation in 2022. With the legislatures in many states now adjourned for the year, we are concluding our weekly updates.



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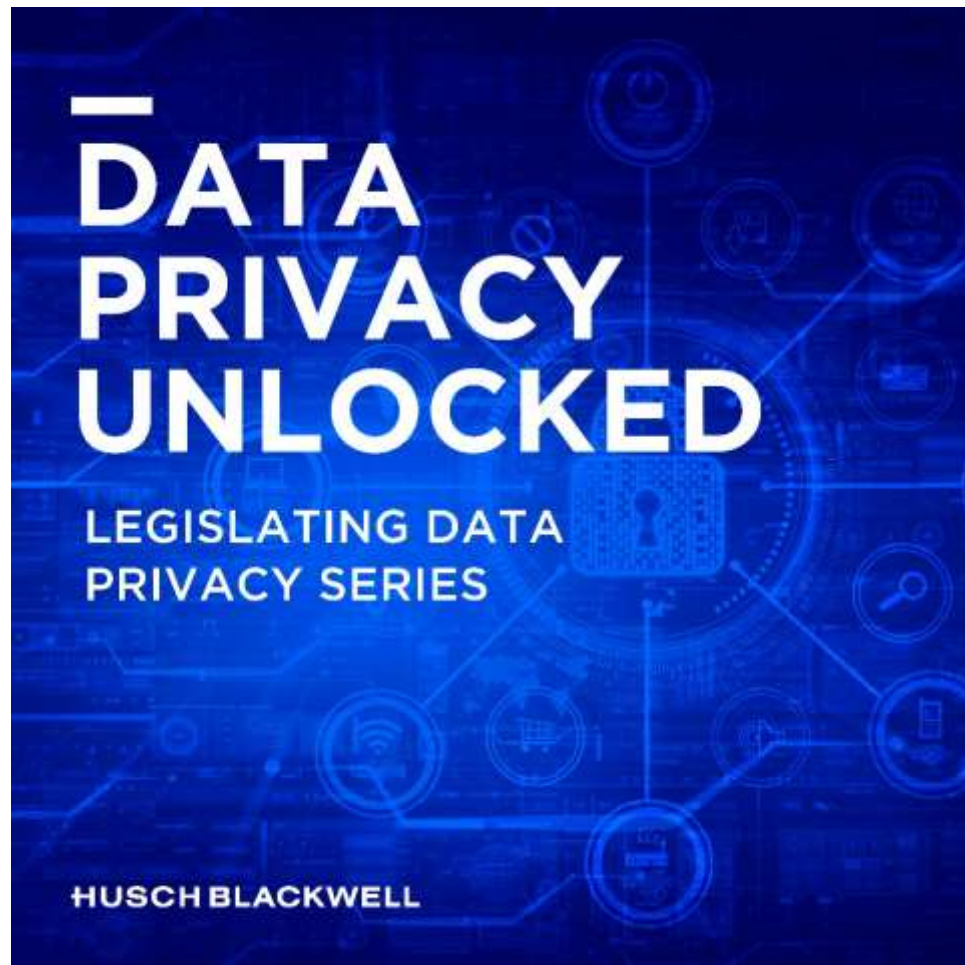
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Podcast

Interviews with state lawmakers who are spearheading privacy legislation



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State Privacy Law Database



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Husch Blackwell's Data Privacy and Cybersecurity Legal Resource

State Privacy Laws

US State Privacy Law Database

State Law or Regulation:

- California Consumer Privacy Act (CCPA)
- CCPA Regulations
- California Privacy Rights Act (CPRA)
- Colorado Privacy Act (CPA)
- Virginia Consumer Data Protection Act (VCDPA)
- Utah Consumer Privacy Act (UCPA)

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Comparing Key Provisions of the CPRA, CPA and VCDPA
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2023 State Privacy Guide



2023 STATE PRIVACY GUIDE

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CPA and VCDPA



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Thank you

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