

US Pending State Data Privacy / Protection Bills

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The chart below is a high-level summary of pending US state data privacy / protection bills. Although it is not a comprehensive description of each of the bills listed below, the chart captures essential provisions within each bill. The terminology in the bills listed below varies widely, such that this high-level summary should not be considered legal advice. Instead, organizations should carefully analyze how the provisions summarized below are applicable to their operations. Note also that these bills are likely to change throughout the legislative process and should be monitored closely.

State and Bill #	Scope (check all that apply): (i) Traditional consumers; (ii) HR contacts; (iii) B2B contacts; (iv) Other	Consumer rights: (i) Notice; (ii) Opt-out of sale / other sharing (iii) Access ¹ ; (iv) Deletion; (v) Objection; (vi) Restriction; (vii) Profiling; (viii) Other	Facial recognition /biometrics provision (Yes/No)	Discrimination ² provision (Yes/No)	Special requirements for minors (Yes/No)	Private right of action (Yes/No) ³	Penalties	Exemptions (i) HIPAA (ii) GLBA (iii) FCRA (iv) Other	Special notes
FLORIDA HB 963	(i) Traditional consumers *But only to the extent information is provided in the online context (i.e., via a website or other online service).	(i) Notice (ii) Opt-out of sale (iii) Correction	No	No	No	No *Specifically states "this section does not establish a private right of action against an operator"	(i) Temporary or permanent injunction; or (ii) Civil penalty not to exceed \$5,000 for each violation	(i) HIPAA; (ii) GLBA; (iii) Other	Carves out "disclosures of covered information by an operator to a person for purposes that are consistent with the reasonable expectations of a consumer considering the context in which the consumer provided the covered information to the operator."

¹ Note that some bills contain a separate "right to know." For the purposes of this summary chart, we have included the "right to know" in the right of access.

² In this context, the bills that contain a "discrimination provision" generally require that covered organizations not discriminate against consumers who exercise their rights under applicable law.

³ If a specific prohibition on the private right of action is not referenced in this chart, the draft bill is silent on the private right of action.

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HAWAII SB 418	(i) Traditional consumers (ii) HR contacts (iii) B2B contacts "	(i) Notice (ii) Opt-out of sales (iii) Access (iv) Deletion	No	Yes *Also includes provision for financial incentives	Yes	No	Enforced and administered by the office of consumer protection. No specific penalties listed in current draft.	None	Requires link titled "Do Not Sell My Identifying Information."
ILLINOIS SB 2330	(i) Traditional consumers (ii) B2B contacts	(i) Notice (ii) Correction (iii) Opt-out of disclosures or sales	No	Yes *Also includes provision for financial incentives	Yes	Yes *Carves out private right of action "under any other law"	Attorney General enforcement - Violation of the Act will constitute an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act, subject to the same remedies	(i) HIPAA (ii) GLBA (iii) FCRA	Risk assessment requirement. Requires opt-in consent for financial incentives programs.
MARYLAND HB 249	(i) Traditional consumers (ii) HR contacts (iii) B2B contacts	(i) Opt-out of disclosures to third parties	No	Yes	Yes	No	Violation of the Act is an unfair or deceptive trade practice under the Maryland Consumer Protection Act and, therefore, subject to its enforcement and penalty provisions.	None	Scope of draft law limited to right to opt-out of "disclosures" to third parties; however, "disclosure" is broadly defined as "transfer of a consumer's personal information by a business to a third party, including selling, renting, releasing, disseminating, making available, transferring, or otherwise communicating by any means." Note, however, that disclosures by a business to a service provider, where

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									necessary to the performance of an operational purpose, are carved out.
MASSACHUSETTS S.120	(i) Traditional consumers (ii) B2B contacts *Note that the bill contains an HR carve-out, however, this carve-out does not appear to cover contractors or job applicants.	(i) Notice (ii) Opt-out of third party disclosure (iii) Access (iv) Deletion	No	Yes	Yes	Yes (i) Damages no greater than \$750 per consumer per incident or actual damages, whichever is greater (ii) Injunctive or declaratory relief (iii) Reasonable attorney fees and costs; and (iv) Any other relief the court deems proper	The Attorney General may choose to bring an enforcement action in the name of the commonwealth. Penalties include: not more than \$2500 for each violation or \$7500 for each intentional violation	(i) HIPAA (ii) GLBA (iii) Other	Includes provision for Attorney General regulations, which would include a "recognizable and uniform opt-out logo or button."
MINNESOTA HF 2917	(i) Traditional consumers (ii) B2B contacts *Note that the bill contains an HR carve-out, however, this carve-out only appears to cover employees and contractors, and	(i) Notice (ii) Access (iii) Portability (iv) Correction (v) Profiling (vi) Objection (vii) Restriction (viii) Other (Portability)	No	No	No	No *Private right of action is specifically carved-out.	Both controllers and processors are subject to civil penalties of no more than \$2500 for each violation, or \$7500 for each intentional violation.	(i) HIPAA (ii) GLBA (iii) Other	Risk assessment requirement. Contains GDPR terms, such as "processor" and "controller." Controller must communicate a

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	does not address job applicants.	(Confirm whether personal data is sold to data brokers)							consumer's exercise of rights to the processor.
NEBRASKA LB 746	(i) Traditional consumers	(i) Notice (ii) Opt-out of sale (iii) Access (iv) Deletion	No	Yes *Also includes provision for financial incentives	Yes	No	Civil penalty in a civil action brought by the Attorney General of up to \$7500 for each violation.	(i) HIPAA (ii) GLBA (iii) FCRA (iv) Other	
NEW HAMPSHIRE HB 1680	(i) Traditional consumers (ii) HR contacts (iii) B2B contacts	(i) Notice (ii) Opt-out of sale (iii) Access (iv) Deletion	No	Yes *Includes provision for financial incentives	Yes	Yes	(i) Injunction and (ii) Liability for civil penalty of up to \$2500 per violation, and \$7500 per intentional violation	(i) HIPAA (ii) GLBA (iii) FCRA (iv) Other	
NEW YORK S 5642 (New York Privacy Act)	(i) Traditional consumers (ii) B2B contacts *Note that the bill contains an HR carve-out, however, this carve-out only applies to data sets maintained for employment	(i) Opt-in to the processing of personal information (ii) Withdrawal of consent (iii) Correction (iv) Deletion (v) Restrict processing (vi) Access	No	No	No	No	Considered unfair or deceptive act in trade or commerce.	(i) HIPAA (ii) GLBA (iii) Other	Introduces the concept of a "data fiduciary", stating that "the fiduciary duty owed to a consumer under this section shall supersede any duty owed to owners or shareholders of a legal entity or affiliate thereof, controller or data broker, to whom this article applies."

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	records purposes. It is unclear whether the carve-out applies to job applicants.	(vii) Profiling (viii) Notice							Consent required for sharing with third parties.
NEW YORK S 224 (Right to Know Act)	(i) Traditional consumers (ii) B2B contacts	(i) Right to know	No	No	No	Yes	The Attorney General, a district attorney, a city attorney, or a city prosecutor may bring a civil action to recover penalties under this statute.	None	Requires businesses to make available the names and contact information of third parties that have received a consumer's personal information from the business.
VIRGINIA HB 473	(i) Traditional consumers	(i) Notice (ii) Opt-out of sales (iii) Access (iv) Deletion (v) Objection (vi) Restriction (vii) Correction (viii) Portability	No	No	No	No	Violations constitute a prohibited practice and are subject to enforcement provisions of Virginia Consumer Protection Act	(i) HIPAA (ii) GLBA (iii) FCRA (iv) Other	Risk assessment requirement.
WASHINGTON SB 6281	(i) Traditional consumers (ii) B2B contacts *Note that the bill contains an HR carve-out, however, this carve-out only appears to cover data maintained for employment records purposes.	(i) Notice (ii) Opt-out of sales, targeted advertising, or profiling (iii) Access (iv) Deletion (v) Portability (vi) Correction	Yes	Yes	No *Act does not apply to "controllers that are in compliance with the verifiable parental consent mechanisms" under COPPA	No *Specifically prohibits private right of action	Attorney General has exclusive enforcement authority. Controllers and processors are both (i) subject to injunctions; and (ii) liable for civil penalty of not more than \$7500 for each violation.	(i) HIPAA (ii) GLBA (iii) FCRA (iv) Other	

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For more information on how these developments may impact your business, please contact any of the below partners.



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