
State of the (Cyber) Union: Understanding 2021's Legal Landscape to Keep Your Company Protected

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Speakers



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Agenda

- California Consumer Privacy Act (CCPA)
- California Privacy Rights Act (CPRA)
- Cyber Liability Insurance
- Current Cybersecurity Threats
- Predictions for 2021



CCPA – Current Status

Key Points

- Comply!
- New Regulations

Enforcement Actions

- Less Activity Than Expected
- Trends

Lawsuits

- Large Number
- Variety



Poll Question #1

California Privacy Rights Act

- Proposition 24
- Builds on CCPA Requirements
- Effective 1/1/23
 - But 12-month lookback

CPRA – The Good, The Bad & The Ugly



CPRA – The Good

Raises Threshold Requirement

Maintains B2B and Employee Exemptions – Through 1/1/23

Eases Some Parts of Consumer Requests

Clear Contractual Requirements

Hint – Start Now!



CPRA – The Bad

New Category – Sensitive Personal Information

(ae) “Sensitive personal information” means: (1) personal information that reveals (A) a consumer’s social security, driver’s license, state identification card, or passport number; (B) a consumer’s account log-in, financial account, debit card, or credit card number in combination with any required security or access code, password, or credentials allowing access to an account; (C) a consumer’s precise geolocation; (D) a consumer’s racial or ethnic origin, religious or philosophical beliefs, or union membership; (E) the contents of a consumer’s mail, email and text messages, unless the business is the intended recipient of the communication; (F) a consumer’s genetic data; and (2)(A) the processing of biometric information for the purpose of uniquely identifying a consumer; (B) personal information collected and analyzed concerning a consumer’s health; or (C) personal information collected and analyzed concerning a consumer’s sex life or sexual orientation. Sensitive personal information that is “publicly available” pursuant to paragraph (2) of subdivision (v) of Section 1798.140 shall not be considered sensitive personal information or personal information.

CPRA – The Bad

CCPA Consumer Rights

Right to Know

Right to Delete

Right to Opt-Out of Third Party Sales

Right to Nondiscrimination

CPRA – The Bad

CPRA Consumer Rights

Right to Know

Right to Delete

Right to Opt-Out of Third Party Sales **and Sharing**

Right to Nondiscrimination

Right to Limit Use and Disclosure of Sensitive PI

Right to Correction

Right to Access Information About Automated Decision Making

Right to Opt Out of Automated Decision Making Technology

Right to Restrict Sensitive PI

Audit Obligations

CPRA – The Bad

Consumer requests beyond 12-month period

- No earlier than 1/1/22

30-Day Right to Cure Gone



CPRA – The Ugly

Creation of the California Privacy Protection Agency

- 5-Member Board
- Key Functions

Data Retention Transparency

- Need for Data Mapping

Data Minimization Requirement



Poll Question #2

Cyber Liability Insurance – 2021 Trends

**Trend One: Demand for Cyber Insurance Increasing—
Market Expected to Grow by 21% in 2021 Due To:**

- Increasing Risk of Cyber Attacks.
- COVID-19 and the Remote Workplace.
- Global Surge in Ransomware Attacks.
- Average Cost of Data Breaches Continues to Increase.
- Privacy Regulations – GDPR, CCPA, CPRA, etc.



1

Cyber Liability Insurance – Trends

Trend Two: Increased Premiums

- Willis Predicts Premium Increases up to 30%.
- Largely due to Ransomware Attacks & Remote Work Risks.
- Greatest Increases in High Risk Industries:
Health Care, Public Entities, Governments,
Manufacturing, Construction, Media
and Technology Companies.

2

Cyber Liability Insurance – Trends

Trend Three: Tighter Underwriting Requirements– Expect Detailed Questions in Insurance Applications:

- Compliance with Privacy Regulations.
- What Protections are Being Taken Against Ransomware Attacks?
- Training Being Given to Remote Workers to Prevent Phishing Attacks?
- What Vendor Management Controls are in Place?
- COVID-19 Network and Hardware Protections in Place?
- Questions Re: Your Incident Response Plan.

3

Cyber Liability Insurance – Trends

Trend Four: Coverage Continues to Evolve

- Coverage Stemming from GDPR, CCPA—Coverage for Wrongful Collection of Information and Compliance with These Laws Being Offered.
- Carriers Looking more Closely at Covering Ransomware Attacks—Decreasing Coverage Limits, Adding Sublimits for this Risk and Requiring Supplemental Ransomware Applications.
- One Size Does Not Fit All—More Important than ever to Know Your Company's Specific Cyber Risks and what Coverage you Need.

4

Cybersecurity Threats

SolarWinds

- Example of supply chain / vendor risk
- Hackers (Russian) added malicious code to company's software system
- "Orion" – 33,000 customers
- Sent update that included malicious code
- Code created backdoor to customer's IT systems



Cybersecurity Threats

- Ransomware

199.7 million ransomware attacks around globe in Q3 2020

Cost in 2020 – Approx. \$20 billion

Ransom and extract

Ransomware-as-a-service

Big-Game Hunting



2021 Predictions—Privacy Legislation

- Privacy Legislation Like the CCPA is Being Considered in Many States.
- Privacy Legislation is Also Being Considered at the Federal Level.

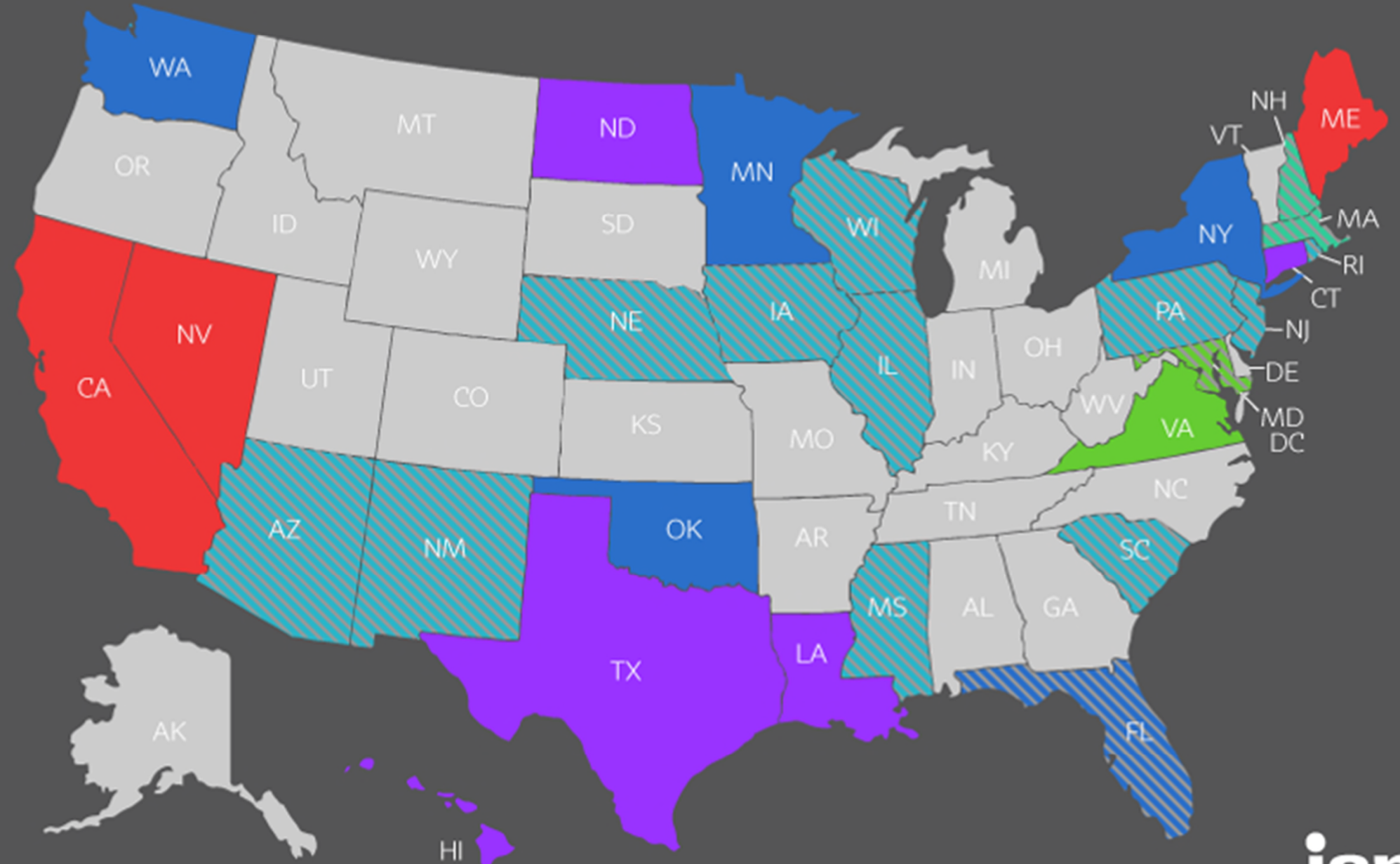
State Comprehensive-Privacy Law Comparison



- Task Force Substituted for Comprehensive Bill
- Bill Died in Committee or Postponed
- None

Statute/Bill in Legislative Process:

- Introduced
- In Committee
- Cross Chamber
- Cross Committee
- Passed
- Signed



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Source: IAPP

2021 Predictions—State Privacy Legislation

- Virginia Consumer Data Protection Act.
- Washington Privacy Act.
- New York SHIELD Act.
- Illinois Biometric Information Privacy Act.
- Vermont – January 2021 Facial Recognition Legislation.
- Oregon – Act Relating to Security for Devices Connected to the Internet.

2021 Predictions—Federal Privacy Legislation

- Biden Administration Review of Consumer Privacy Bill of Rights.
- Privacy Legislation Introduced in 2020, None Passed.
- Enforcement Mechanism for Privacy Legislation = Sticking Point.
- Internet of Things Cybersecurity Improvement Act of 2020.
- Section 230 of the Communications Decency Act.

Questions?

Thank You!

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