



2021 Consumer Data Privacy Legislation

12/27/2021



Introduction

States have long been involved in passing privacy-related laws directed at specific sectors or services, and several states have constitutional privacy provisions that give citizens greater privacy protections than the U.S. Constitution. In recent years, however, information privacy has gained momentum as a significant issue in state legislatures.

Online commerce sites, social media, and mobile devices and apps are becoming an integral part of consumers' lives. They improve consumer access to information and make shopping and purchases faster and easier. Smart speakers, intelligent personal assistants and other connected devices extend computer networks to everyday items.

These applications and devices have the capability to collect and share personal information to an extent not possible previously, and sometimes in ways that are not apparent to consumers. Concerns about privacy are heightened with frequent breaches, cyberattacks and unauthorized online sharing of personal information.

Not surprisingly, legislatures are focused increasingly on online privacy, and several states have enacted laws to require online privacy policies and notices or to give increased protections to children's online privacy, among other initiatives. Legislatures also are looking into third party sales of information, requiring information brokers to register with the state or to disclose specified information to consumers.

More recently, however, an increasing number of state legislatures have been considering a more comprehensive approach to privacy regulation. The California Consumer Privacy Act (CCPA), passed in 2018, and the California Privacy Rights and Enforcement Act (CPRA) passed by California voters in Nov. 2020 (California Proposition 24), were likely among the factors prompting an increase in state privacy bills. The CCPA is one of the broadest online privacy laws in the U.S., affecting companies across the country that do business with California residents. Since the passage of the CCPA, an increasing number of states are introducing similar comprehensive privacy legislation, as well as other more narrowly-tailored consumer privacy legislation. Below are summaries of legislation considered and enacted in 2021. Legislation related to data breaches and some additional types of privacy laws and legislation are covered separately in other NCSL resources.

2021 Overview

At least 38 states introduced more than 160 consumer privacy related bills in 2021 (compared to 30 states in 2020 and 25 in 2019). Comprehensive privacy legislation was the most common type of bill, introduced in at least 25 states. Comprehensive legislative is defined here as similar to the CCPA, i.e., broadly regulating the collection, use and disclosure of personal information and providing an express set of consumer rights with regard to collected data, such as the right to access, correct and delete personal information collected by businesses.

The legislation listed below covers the regulation of privacy practices of commercial entities, online services or commercial websites, including bills related to online privacy, collection of consumers' biometric or genetic data, ISP and information broker regulation and other miscellaneous consumer privacy issues.

Trends and Enactments

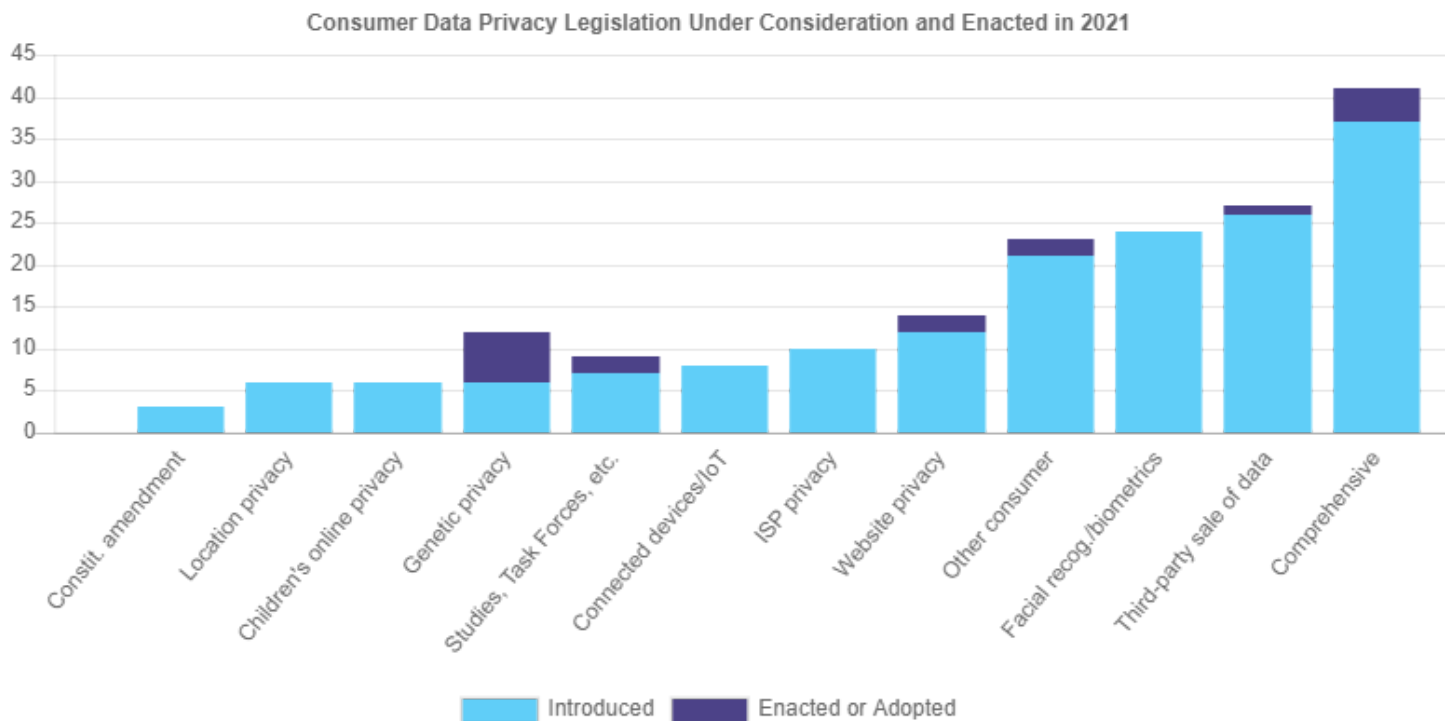
Overall, at least 13 states in 2021 enacted 17 consumer data privacy bills and two states adopted resolutions providing for studies on the issue. As noted previously, comprehensive privacy legislation was introduced in at least 25 states, and two states, Colorado and Virginia, followed California by enacting comprehensive consumer data privacy legislation, though each state varies in certain provisions, such as exemptions, opt out rights and other aspects.

Legislation aimed at information brokers was introduced in 11 states. California, Nevada and Vermont had previously enacted laws, and Nevada in 2021 enacted legislation expanding its law, but no other bills passed.

Another area of active legislation relates to commercial entities that use facial recognition tools or that collect biometrics from consumers. Legislation to regulate biometrics was introduced in 24 states, but again, no bills passed.

Although only about seven states introduced legislation aimed at protecting consumer genetic information this year, all seven bills passed. Direct-to-consumer genetic testing is becoming widely available, but some consumers have raised concerns about whether test results could be used or shared in unanticipated ways. Some of the common provisions in these bills include requiring notice about a company's policies and

procedures for using and disclosing genetic data and obtaining a consumer’s consent before collecting or transferring genetic data, or using the data in ways other than the primary purpose for which it was collected.



(Data in above chart current as of Sept. 2021.) A complete list of 2021 consumer data privacy legislation follows. Use CTRL-F to search for categories; use the search box to find states. An explanation of the categories of consumer privacy bills in 2021 are described here.

State	Bill Status	Summary	Category
Alabama	AL H.B. 216 Failed - Adjourned	Relates to consumer protection, creates the Alabama Consumer Privacy Act, allows a consumer to request a business to disclose personal information it collects about the consumer and to require a business to make those disclosures under certain conditions, allows a consumer to request deletion of certain personal information, requires a business to delete certain personal information under certain conditions, allows a consumer to request a business to disclose the sale of certain personal information.	Comprehensive

	CA A.B. 1490 Pending	Requires appointments to the board which governs the California Privacy Protection Agency to be made from among Californians with expertise in the areas of privacy, technology, and consumer rights.	Studies, Task Forces, Comms.
	CA S.B. 41 Enacted	Establishes the Genetic Information Privacy Act, which would require a direct-to-consumer genetic testing company to provide a consumer with certain information regarding the company's Notice/Policies and procedures for the collection, use, maintenance, and disclosure, as applicable, of genetic data.	Consumer Genetic Privacy
	CA S.B. 346 Pending	Requires a manufacturer of a new motor vehicle that is equipped with one or more in-vehicle cameras to disclose that fact. Prohibits a person or entity from providing for the sale or lease of a new motor vehicle with one or more in-vehicle cameras in this state without prominently informing the user or the person designated by the user to purchase the vehicle.	Other Consumer Privacy
	CA S.B. 746 Pending	Grants a consumer the right to request that a business disclose to the consumer whether or not the business uses personal information collected about the consumer for a political purpose. Requires a business that collects and uses such information to disclose specified information upon receipt of a request from the consumer. Requires a business with gross revenue exceeding a certain amount that does not engage in such activities to submit a certain statement to the State Privacy Protection Agency.	Other Consumer Privacy
Colorado	CO H.B. 1244 Failed - Adjourned	Concerns restrictions on the collection and use of biometric information.	Biometrics Facial Recognition
	CO S.B. 190 Enacted	Concerns additional protection of data relating to personal privacy.	Comprehensive
Connecticut	CT H.B. 5044 Failed	Concerns children and digital privacy, prohibits the collection and commercial use of certain digital information concerning minors.	Children's Online Privacy

	KY S.B. 96 Failed - Adjourned	Creates a Class A.B. misdemeanor for disseminating personally identifying information on the Internet about a minor, establishes increased criminal penalties for injury, death, and levels of monetary loss, creates a civil cause of action arising from violations, limits the liability of service providers.	Children's Online Privacy
	KY S.B. 190 Failed - Adjourned	Defines connected device, cookies, express consent, first-party operator, and third-party operator, prohibits first and third-party Web site operators from collecting, using, storing, or sharing the data obtained from a connected device without the Web site user's express consent, creates a penalty enforceable by the Attorney General.	Website Privacy, Connected Devices
	KY S.B. 278 Failed - Adjourned	Defines terms, requires private entities to develop and comply with a retention and destruction schedule for biometric identifiers and information, prohibits private entities' collection, trade, and disclosure of biometric information with exception, creates a standard of care for private entities collecting biometric information, creates a civil cause of action for violations.	Biometrics Facial Recognition
	KY S.B. 280 Failed - Adjourned	Creates a cause of action for subcutaneous implantation of an identification device, restricts use of facial recognition technology and biometric identifiers, creates a cause of action for use of facial recognition technology or biometric identifiers, creates new section of KRS Chapter 455 to prohibit use of facial recognition technology as evidence.	Biometrics Facial Recognition
Louisiana	LA SR 188 Adopted	Requests the Joint Legislative Committee on Technology and Cybersecurity to study the impacts of the buying, selling, and usage of consumer data transactions.	Studies, Task Forces, Comms.

Maryland	MD H.B. 218 Failed	Relates to consumer protection.	Biometrics Facial Recognition
	MD H.B. 240 Enacted	Relates to Forensic Genetic Genealogical.	Consumer Genetic Privacy
	MD S.B. 16 Failed - Adjourned	Relates to biometric identifiers and biometric information privacy.	Biometrics Facial Recognition
	MD S.B. 187 Enacted	Relates to forensic genetic genealogical DNA Analysis.	Consumer Genetic Privacy
	MD S.B. 930 Failed - Adjourned	Relates to Maryland Online Consumer Protection Act.	Comprehensive
Massachusetts	MA H.B. 136 Pending	Relates to data privacy.	Information Brokers, Facial Recognition
	MA H.B. 142 Pending	Relates to consumer data privacy.	Comprehensive, Information Brokers
	MA H.B. 521 Pending	Relates to the collection, use, disclosure or dissemination of personal information from customers of telecommunications or internet service providers.	ISP Privacy
	MA H.B. 4029	Relates to algorithmic accountability and bias prevention in the protection of consumers.	Other Consumer Privacy
	MA S.B. 46 Pending	Establishes the Massachusetts Information Privacy Act.	Comprehensive
	MA S.B. 50 Pending	Relates to data security and privacy.	Information Brokers
	MA S.B. 220 Pending	Protects personal biometric data.	Facial Recognition
Massachusetts	MA S.B. 2146 Pending	Promotes net neutrality and consumer protection.	ISP Privacy

	NJ S.B. 236 Failed	Requires commercial Internet websites and online services to notify customers of collection and disclosure of personally identifiable information and allows customers to opt out.	Website Privacy
	NJ S.B. 269 Pending	Requires certain businesses to notify data subjects of collection of personally identifiable information, establishes certain security standards.	Comprehensive
	NJ S.B. 1223 Pending	Prohibits retail sales establishment from storing certain magnetic-stripe data, requires reimbursement for costs incurred by financial institution due to breach of security.	Other Consumer Privacy
New Jersey	NJ S.B. 1257 Pending	Requires commercial Internet websites and online services to notify consumers of collection and disclosure of personally identifiable information, allows consumers to opt out.	Website Privacy
	NJ S.B. 1317 Pending	Requires consumer reporting agencies to increase protection of consumers' personal information.	Other Consumer Privacy
	NJ S.B. 1657 Pending	Prohibits commercial mobile service providers and mobile application developers from disclosing customer's location data to third parties.	ISP Privacy
	NJ S.B. 2040 Pending	Enacts the Reader Privacy Act.	Other Consumer Privacy
New York	NY A.B. 27 Pending	Establishes the biometric privacy act.	Biometrics Facial Recognition
	NY A.B. 400 Pending	Restricts the disclosure of personal information by businesses.	Information Brokers
	NY A.B. 405 Pending	This act establishes provisions to allow consumers the ability to simply opt-out of being monitored on the internet. Such protections, akin to the do not call registry, are a fair, sensible and common-sense way to give consumers a clear choice with respect to being monitored.	Other Consumer Privacy

NY S.B. 1933 Pending	Establishes the biometric privacy act, requires private entities in possession of biometric identifiers or biometric information to develop a written policy establishing a retention schedule and guidelines for permanently destroying biometric identifiers and biometric information when the initial purpose for collecting or obtaining such identifiers or information has been satisfied or within three years of the individual's last interaction with the private entity, whichever occurs first.	Biometrics Facial Recognition
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NY S.B. 2505 Pending	Requires an entity to provide a clear and conspicuous link on the covered entity's internet homepages, titled "Do Not Sell or Share My Personal Information", to an internet web page that enables a consumer, or a person authorized by the consumer, to opt-out of the sale or sharing of the consumer's personal information. Provide a clear and conspicuous link on the covered entity's internet homepages, titled "Limit the Use and Collection of My Personal Information", that enables a consumer, or a person authorized by the consumer, to limit the collection, use or disclosure of the consumer's personal information to those uses authorized by subdivision three of this section. At the covered entity's discretion, utilize a single, clearly labeled link on the covered entity's internet homepages, in lieu of complying with subparagraphs (i) and (ii) of this paragraph, if that link easily allows a consumer to opt-out of the sale or sharing of the consumer's personal information and to limit the use, collection or disclosure of the consumer's information.	Other Consumer Privacy
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	NY S.B. 6727 Pending	Enacts the "Data Economy Labor Compensation and Accountability Act", establishes the Office of Consumer Data Protection for the purpose of properly safeguarding personal data, imposes a tax on data controllers and data processors required to register with such office.	Information Brokers
North Carolina	NC S.B. 569 Pending	Protects consumers by enacting the Consumer Privacy Act.	Comprehensive
North Dakota	ND H.B. 1330 Failed	Relates to prohibiting covered entities from selling users' protected data without consent, provides a penalty.	Comprehensive, Information Brokers
Ohio	OH H.B. 376 Pending	Enacts the Ohio Personal Privacy Act.	Comprehensive
Oklahoma	OK H.B. 1602 Pending - Carryover	Relates to privacy of computer data, enacts the Oklahoma Computer Data Privacy Act, defines terms, provides that this act applies to certain businesses that collect consumers' personal information, provides exemptions, prescribes compliance with other laws and legal proceedings, requires this act to be liberally construed to align its effects with other laws relating to privacy and protection of personal information.	Comprehensive, Information Brokers
Oregon	OR H.B. 2392 Failed	Imposes tax on privilege of engaging in business of selling personal information at retail in this state.	Other Consumer Privacy
	OR H.B. 3284 Enacted	Prohibits a covered organization from collecting, using or disclosing personal health data about a resident individual who has not given affirmative express consent, unless in the context of an employment relationship, to comply with legal obligation, unless personal health data was lawfully available to the public, unless data was collected before an emergency period for reasons other than tracking, monitoring or tracing a resident's exposure to or infection by COVID 19, or if such data is deidentified.	Website Privacy
	OR S.B. 310 Failed	Prohibits private entities from using face recognition technology in place of public accommodation.	Facial Recognition

Pennsylvania	PA H.B. 299 Pending	Requires cell phones and devices utilizing Internet protocol-enabled service to obtain authorization by end-use consumers prior to transmitting certain information.	ISP Privacy
	PA H.B. 1126 Pending	Provides for consumer data privacy, for rights of consumers and duties of businesses relating to the collection of personal information and for duties of the Attorney General.	Comprehensive
Rhode Island	RI H.B. 5509 Pending	Prohibits the sale for profit of consumer generated internet data by a social media platform without the consent of and compensation paid to the consumer.	Other Consumer Privacy
	RI H.B. 5959 Pending	Creates the Transparency and Privacy Protection Act, requires online service providers and commercial websites that collect, store and sell personally identifiable information to disclose what categories of personally identifiable information they collect and to what third parties they sell the information.	Website Privacy
	RI H.B. 6043 Adopted	Reinstates the life of and extends the reporting and expiration dates of the special legislative commission known as the Online Data Transparency and Privacy Protection Commission.	Studies, Task Forces, Comms.
South Carolina	SC H.B. 3014 Pending - Carryover	Enacts the State Data Privacy Protection Act, defines relevant terms, prohibits a mobile telecommunications provider from selling a customer's personal data to a third party, imposes a penalty, authorizes the attorney general to investigate and enforce alleged violations of this act.	ISP Privacy
	SC H.B. 3063 Pending - Carryover	Enacts the South Carolina Biometric Data Privacy Act, provides certain requirements for a business that collects a consumer's biometric information, allows the consumer to request that a business delete the collected biometric information and to prohibit the sale of biometric information, establishes certain standards of care for a business that collects biometric information, establishes a procedure for a consumer to opt out of the sale of biometric information.	Biometrics Facial Recognition

	SC S.B. 510 Enacted	Relates to definitions for the regulation of motor vehicle manufacturers, distributors, and dealers, provides for how a franchisor, manufacturer, distributor, or a third party affiliate must handle consumer data, relates to specific acts deemed unfair methods of competition and unfair or deceptive acts or practices, offers promotions, service contracts, debt cancellation agreements, maintenance agreements, or other similar products, provides for additional violations.	Other Consumer Privacy
South Dakota	SD S.B. 178 Enacted	Prohibits certain insurers from using genetic information.	Consumer Genetic Privacy
Texas	TX H.B. 1743 Failed - Adjourned	Relates to the protection of personal information sold by a state agency to a contractor, authorizes a civil penalty.	Information Brokers
	TX H.B. 3741 Failed - Adjourned	Relates to the personal identifying information collected, processed, or maintained by certain businesses, imposes a civil penalty.	Comprehensive
	TX H.B. 3742 Failed - Adjourned	Relates to a prohibition on the use of genetic information gathered from direct-to-consumer genetic tests by a long-term care benefit plan issuer or a life insurance company.	Consumer Genetic Privacy
	TX H.B. 4164 Failed - Adjourned	Relates to the authority of individuals over the personal identifying information collected, processed, or maintained about the individuals and certain others by certain businesses.	Other Consumer Privacy
	TX S.B. 1952 Failed - Adjourned	Relates to the capture and use of an individual's biometric identifiers, specimen, or genetic information by a governmental body or peace officer or by a person for commercial purposes.	Biometrics Facial Recognition, Consumer Genetic Privacy
Utah	UT S.B. 200 Failed	Enacts the Utah Consumer Privacy Act and Utah Commercial Email Act.	Comprehensive
	UT S.B. 227 Enacted	Enacts the Genetic Information Privacy Act.	Consumer Genetic Privacy

VermontVT H.B. 75
Pending -
Carryover

Relates to promoting consumer protection in data and technology. Provides that with respect to a consumer, a person: (1) shall not scan the face of a nonuser in a photograph, (2) shall not use facial or voice recognition technology unless a consumer opts in to the use of the technology, (3) shall not use facial or voice recognition technology for a purpose other than product development, (4) shall not use for marketing purposes a listening feature that stores conversations, (5) shall delete quality enhancement data after 21 days, and (6) shall disclose the use of facial recognition technology on a clear and conspicuous, physical sign at the entrance of a business location that uses the technology. (b) A.B. person who violates this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title. Section 2433. DATA PRIVACY (a) A.B. business that operates a social networking service: (1) shall provide to a consumer that closes his or her account the option to permanently delete the consumer's personally identifiable information from the business's databases and records, and (2) if a consumer exercises the option pursuant to subdivision (1) of this subsection, the business: (A) shall delete the consumer's personally identifiable information in a commercially reasonable time, and (B) shall not sell or exchange the consumer's personally identifiable information. (b) A.B. business that collects data about a consumer: (1) shall include in its privacy policy, which it shall post on its website: (A) the average monetary value to the business of a consumer's data, and (B) how the business uses consumer data that is not directly related to the service the business provides, and (2) shall not sell or exchange global positioning system data about a consumer that is collected by a mobile telephone service provider.

Biometrics | Facial
Recognition, Children's
Online Privacy

Washington	WA H.B. 1433 Pending - Carryover	Creates a charter of people's personal data rights.	Comprehensive
	WA S.B. 5062 Pending - Carryover	Concerns the management, oversight, and use of data.	Comprehensive
West Virginia	WV H.B. 2064 Failed - Adjourned	Relates to the Biometric Information Privacy Act.	Biometrics Facial Recognition
	WV H.B. 2148 Failed - Adjourned	Imposes a general data mining service tax on commercial data operators.	Information Brokers
	WV H.B. 3159 Failed - Adjourned	Relates to consumer data privacy, defining terms, requiring privacy for certain identifying personal information, establishing a consumer right to request copy of personal data collected, establishing a consumer right to have personal information deleted or corrected, establishing a consumer right to request personal data sold or shared, establishing a consumer right to opt-out of the sale or sharing of personal information to third parties, prohibiting discrimination against consumers who exercise their right under this article, establishing procedures for requests for personal information under this article, establish a form to opt-out of sale or sharing of personal information, creating a private cause of action, empowering the West Virginia Division of Consumer Protection to establish rules under this article for enforcement, and empowering the West Virginia Division of Consumer Protection to bring suit for violation of this article.	Comprehensive

WV H.B. 3161 Failed - Adjourned	Relates to online privacy protection for minors. Prohibits the marketing or advertising of certain products or services to minors; specifies prohibited good and services; prohibits the collection of information about minor users for marketing purposes; requires operators of website, online services, or applications to remove personal information about a minor when the information is visible to others; and specifying limited exceptions.	Children's Online Privacy
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WV S.B. 581 Failed - Adjourned	Relates to online privacy protection for minors. Prohibits the marketing or advertising of certain products or services to minors; specifies prohibited good and services; prohibits the collection of information about minor users for marketing purposes; requires operators of website, online services, or applications to remove personal information about a minor when the information is visible to others; and specifying limited exceptions.	Children's Online Privacy
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Explanation of Categories

Biometrics | Facial Recognition
Children's Online Privacy
Comprehensive
Connected devices
Constitutional Amendment
Genetic Privacy
Information Brokers
ISP Privacy
Location Privacy
Other Consumer Privacy
Studies, Task Forces, or
Commissions
Website Privacy

Biometrics | Facial Recognition

May require private entities to develop a written policy regarding collection or retention of biometric identifiers or may require businesses to allow a consumer to opt out of the sale of biometric information. Some legislation may apply only to a specific type of biometric, e.g., voice recognition or facial recognition, or to all types of biometric information.

Additional Resources