



HERZOG
HERZOG FOX & NEEMAN

The New US State Privacy Laws

Herzog's Comparative Guide
On Key Data Subject Rights



February 2024

GENERAL

The legal landscape surrounding data protection in the United States has undergone significant changes over the past couple of years. While various attempts to legislate a comprehensive federal privacy law have not succeeded, more and more US states have moved forward with adopting their own **comprehensive privacy laws**. **To date, 14 states have already enacted comprehensive general privacy laws, with many others on the way**, resulting in a complex and fragmented regulatory environment.

The various laws share significant similarities in their **key concepts and principles** (which can be viewed in our [detailed playbook](#) comparing these aspects in the first 4 enacted state laws and the European General Data Protection Regulation). However, they vary in the **particular rights granted to data subjects** and their scope.

Recognizing the challenges that this fragmented landscape presents, we have prepared this concise comparative guide, to assist with navigating through the differences between the various US states' privacy laws in relation to **data subject (consumer) rights** and a couple of **additional key requirements**.

If you require further clarification or guidance on the contents of this table or any other data protection matters, please don't hesitate to contact us. Our team is constantly monitoring the developments in this area, and we will keep updating this comparative guide as new laws and changes to existing ones occur.

Legislation	Effective Date	Data Subject (Consumer) Privacy Rights								Other Requirements	
		Right of Access	Right to Rectify	Right to Delete	Right to Opt-out	Right to Data Portability	Right to Opt-out of Automated Decision Making	Right to Limit Use of Sensitive Data	Right of Non-Discrimination	Consent for Processing Sensitive Data	Data Protection Assessment
California Consumer Privacy Act	January 2020 (amended January 2023)	✓	✓	✓	✓*	✓	✓	✓	✓		✓ S,P,SE,A,R,E, M,PA,AI
Virginia Consumer Data Protection Act	January 2023	✓	✓	✓	✓	✓			✓	✓	✓ S,P,SE,A,R
Colorado Privacy Act	July 2023	✓	✓	✓	✓*	✓			✓	✓	✓ S,P,SE,A,R
Connecticut Personal Data Privacy and Online Monitoring Act	July 2023	✓	✓	✓	✓*	✓			✓	✓	✓ S,P,SE,A,R
Utah Consumer Privacy Act	December 2023	✓		✓	✓	✓			✓		
Oregon Consumer Privacy Act	July 2024	✓	✓	✓	✓*	✓			✓	✓	✓ S,P,SE,A,R
Texas Data Privacy and Security Act	July 2024	✓	✓	✓	✓	✓			✓	✓	✓ S,P,SE,A,R
Montana Consumer Data Privacy Act	October 2024	✓	✓	✓	✓*	✓			✓	✓	✓ S,P,SE,A,R
Iowa Consumer Data Protection Act	January 2025	✓		✓	✓	✓			✓		
Delaware Personal Data Privacy Act	January 2025	✓**	✓	✓	✓*	✓			✓	✓	✓ S,P,SE,A,R
New Jersey Data Privacy Act	January 2025	✓	✓	✓	✓*	✓			✓	✓	✓ S,P,SE,A,R
New Hampshire Act Relative to the Expectation of Privacy	January 2025	✓	✓	✓	✓*	✓			✓	✓	✓ S,P,SE,A,R

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Tennessee Information Protection Act	July 2025	✓	✓	✓	✓	✓			✓	✓	✓ S,P,SE,A,R
Indiana Consumer Data Protection Act	January 2026	✓	✓	✓	✓	✓			✓	✓	✓ S,P,SE,A,R

LEGEND

- S** - Sale of personal information to a third party for monetary or other valuable consideration.
 - A** - Cross-contextual targeted advertising based on consumers' activities across businesses/controllers.
 - P** - Profiling or automated decision making, which is automated processing of personal information to evaluate certain aspects relating to a natural person.
 - SE** - Processing of sensitive personal information such as race, sexual orientation, health data, biometric data etc.
 - R** - Processing of personal information that presents a heightened risk of harm to consumers.
 - E** - Processing personal information of employees, contractors, job applicants or students for monitoring purposes.
 - M** - Processing personal information of a known minor under the age of 16.
 - PA** - Processing the personal information of individuals in publicly accessible places using monitoring technologies.
 - AI** - Processing personal information to train Artificial Intelligence or automated decision-making.
- * - Requires to honor opt-out preference signals.
- ** - The Right of Access includes the right to receive a list of specific third parties with which personal information is shared.

CONSUMER RIGHTS EXPLAINED

- **Right of Access** - the right of a data subject (consumer) to access the information collected and processed about the consumer, including the sources of information, with whom it was shared etc.
- **Right to Rectify** - the right of a consumer to request that incorrect or outdated personal information about the consumer will be corrected.
- **Right to Delete** - the right of a consumer to request deletion of personal information concerning the consumer.
- **Right to Opt-out** - the right of a consumer to restrict the business's/controller's ability to process personal information about the consumer for specific purposes, such as sale of personal information, sharing of personal information for targeted advertising and consumer profiling.
- **Right to Data Portability** - the right of a consumer to request personal information about the consumer will be provided in a structured, commonly used and machine-readable format.
- **Right to Opt-out of Automated Decision Making** - the right of a consumer to request not to be subject to decisions based solely on automated processing which produces legal effects concerning the consumer without human input.
- **Right to Limit Use of Sensitive Data** - the right of a consumer to direct a business that collects sensitive personal information to limit its use of the consumer's sensitive personal information to what is necessary to perform the services or provide the goods reasonably expected by an average consumer.
- **Right of Non-Discrimination** - the right of a consumer not to be discriminated for exercising data protection rights.

HERZOG'S TECHNOLOGY REGULATION DEPARTMENT

Herzog's Technology Regulation Department is a recognized market leader in its field.

The team is led by domain experts who possess a unique set of vital, **interdisciplinary** and **global** regulatory advisory skills, and are uniquely positioned to advise a range of clients, including leading multinational technology companies as well as start-ups and disruptive technologies vendors, on applicable regulatory and compliance considerations in numerous technological areas.

We understand that the **regulatory exposure** and scope of required **attention** of almost any company operating in the **digital and technological sphere** are much wider than one specific jurisdiction or legal discipline. As our clients are often on the forefront of this ever-evolving landscape, we further understand the impact of industry trends and compliance demands on our clients' businesses. Therefore, our team possesses in-depth knowledge of the increasing volume of regulations, enforcement actions, legislative and industry trends in a **myriad of jurisdictions, digital platforms** and leading **self-regulatory guidelines**. This enables our team to offer **practical, holistic** and **comprehensive** solutions for complex situations often presented by innovative technologies and disruptive business solutions, providing "hands-on" support to our clients on the strategic, corporate and operational aspects of their business, with the aim of mitigating our clients' legal and business risks.

Regulation of **personal information** has been dramatically expanding on a global basis. Companies processing data of hundreds of millions of data subjects as well as small start-ups - all are required to spend significant resources on understanding and implementing the constantly evolving legal challenges. Our [Privacy & Data Protection](#) team guides our clients on all matters relating to their data usage and assist them in navigating the numerous data protection regimes, in all the jurisdictions in which they operate.

This document does not constitute an exhaustive legal opinion or regulatory overview of all applicable regulatory requirements regarding the topics addressed by it, but rather, only outlines the key issues arising from the regulatory requirements. Since we are not licensed to practice law outside of Israel, this document is intended to provide only a general background regarding this matter. This document should not be regarded as setting out binding legal advice, but rather a general overview which is based on our understanding of the practical interpretation of the applicable laws, regulations and industry guidelines.



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