



**Armstrong
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US Data Privacy Laws—The Intersection of HR and Data Privacy

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// Always exceed expectations through teamwork and excellent client service.

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Definitions

Cybersecurity

How you protect information, including but not limited to, personal information and electronic systems

Data Privacy

Legal, contractual and ethical obligations governing how personal information is accessed, used and disclosed

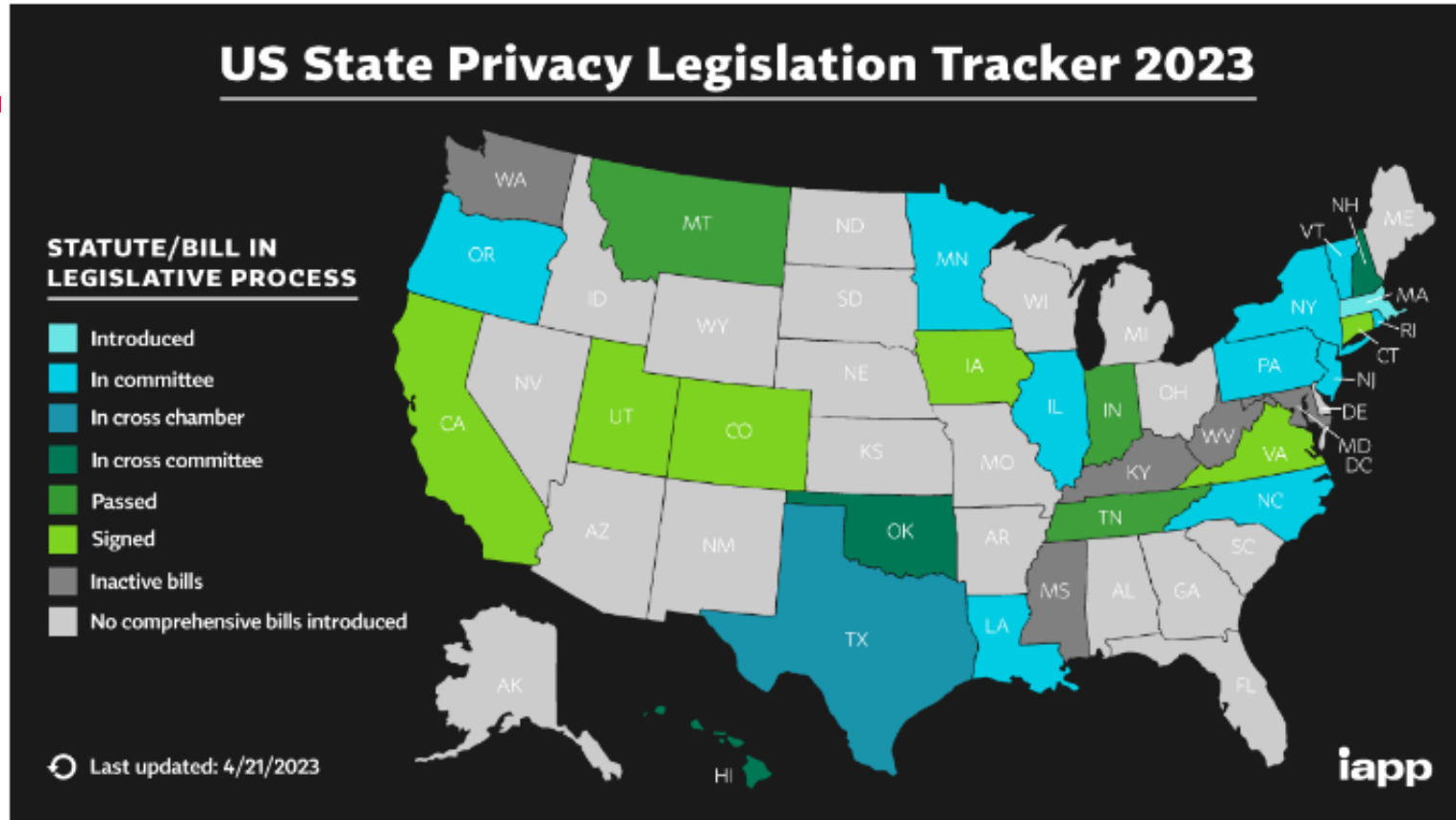
US Privacy Legislation in the Not Too Distant Past

- **Federal law was industry/sector specific**
 - HIPAA, GLBA, FERPA, etc.
- **State Legislatures passed a patchwork of data breach reporting statutes to govern breaches of Personally Identifiable Information (“PII”)**
- **State Legislatures passed a patchwork of data security laws setting a floor for cybersecurity standards in most states**

Comprehensive Privacy Legislation Began with the GDPR...

- The “updated” EU-wide data protection and privacy regime – the General Data Protection Regulation (GDPR).
- It replaced the Data Protection Directive (1995) which historically regulated personal data processing in the EU.
- Principally, the GDPR:
 - provides individuals (a/k/a data subjects) with greater control over their personal data;
 - ensures transparency around the use of that personal data; and
 - mandates extensive compliance measures to protect that personal data and demands accountability for those measures.

Evolving Privacy Legislative Patchwork



Source: https://iapp.org/media/images/resource_center/State_Comp_Privacy_Law_Map.png

Comprehensive Data Privacy Laws Come to the US

- CCPA (Jan. 1, 2020)
- CPRA (Jan. 1, 2023)
- Virginia (Jan. 1, 2023)
- Colorado (July 1, 2023)
- Connecticut (July 1, 2023)
- Utah (Dec. 31, 2023)
- Iowa (Jan. 1, 2025)
- Indiana* (Jan. 1, 2026)
- Montana* (Oct. 1, 2024)
- Tennessee* (July 1, 2025)

*law passed but not officially signed into law, as of April 28, 2023

Trends in Comprehensive Privacy Legislation

- Information that “identifies or relates to” a particular individual such as name, address, IP address, email,
 - Most states exempt information collected in the employment context
- Method of collection does not matter – these laws apply beyond just data collected through a website
- Notice and consent regimes – companies must provide notice of collection practices and allow opt-out or obtain opt-in to certain processing
- Afford rights to consumers in their information such as the right to access, know, delete, opt-out of targeted advertising or “sales”/“sharing” of data, certain disclosures, correct, right to limit certain uses of sensitive personal information
- Threshold requirements are designed to exclude small businesses
- Contain special protections for child data

CPRA Employment-Related Information

- **The people: job applicants, independent contractors, directors, employees, their beneficiaries, dependents, emergency contacts (current and former)**
- **All the Employment-Related Information you can think of:**
 - Employee emails, personal effects in an employee's office, personal documents on work computer, work phone usage, work product, browser history, etc.
 - Org charts, references and performance reviews, compensation and benefits, career development planning
 - Employee leave, succession planning, providing references, training logs
 - Employment law obligations, video footage, background checks, drug test results

What do these laws mean for HR/Employment Professionals?

HR/Employment Records are a Fertile Source of PII

What Rights Do Employees have in Their Data?

Vendor Management

What Does This Mean for Privacy Policies?

Horror Stories



QUESTIONS