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# States Battle it Out: How Many States Have a Stake in Consumer Privacy?

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# Speakers



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# General Consumer Privacy Bills

## The State Privacy Landscape



# Kids Online Bills

## AADC-Like

- Online services, products, or features "likely to be accessed by children" (U18)
- Expanded "DPIA" requirements, age estimation, plus requirements for/prohibitions on certain data practices (e.g., "high" privacy default settings)
- E.g., CA, CT, FL, IL, MN, NJ, NY, NM, OR, TX

## Age Gate/VPC

- Age verification requirements for distribution of certain content (e.g., AR/LA/UT "pornography" laws) or age verification plus verifiable parental consent/control requirements for certain services (e.g., UT/AR "social media" laws)
- Age verification for *all* users, or knowledge standard
- E.g., AR, LA, NY, TX, UT

## Miscellaneous

- Specific requirements/prohibitions for protecting kids online
- Indirect age verification requirement or a knowledge standard
- E.g., CA/CT/MT privacy laws; CA bill re: preventing harmful behaviors on social media; NC bill prohibiting use of minors' data in algorithmic recommendation systems

## Developing Issues

- (1) Age verification/assurance vs. privacy vs. free expression/anonymity vs. other values
- (2) "Best interest of the child" --common threads, yet cultural divergences
- (3) Ambiguity + prescriptive requirements --> lack of harmonization
- (4) Ongoing Litigation

# Consumer Health Privacy Bills

## National Policy Trends

- Proposed rules for expanding HIPAA coverage
- FTC Enforcement action:
  - GoodRX
  - BetterHelp
  - Kochava
- Dobbs v. Jackson overturns Roe v. Wade
- ADPPA

Takeaway = need for third-party accountability mechanisms to fill gap in the marketplace

### Supportive solutions:

- Read the WA MHMD Act closely
- Review expectations based on the national and state policy predictors
- [BBB's New Digital Health Privacy Program](#)

## State Policy Trends

- Washington My Health, My Data Act
- WA look-alikes:
  - CT SB 1601;
  - IL SB 1601 and HB 3603;
  - MA S 184 and MA H 386;
  - NV SB 370;
  - NY S 9599, NY A05517; NY S158; NY A 3285
- 9 state consumer privacy laws with unique definitions of sensitive data



# Other Privacy Bills

## AI Bills

- California Assembly Bill 331, Washington, DC (Stop Discrimination by Algorithms Act of 2023 (B25-0114))

## Data Broker Bills

- California (SB 362), New Jersey (A4811/A5254), Oregon (H2052), Oregon (HB 2052), Texas (SB 2105)

## Automated Employment Decision Tool Bills

- New Jersey (A4909/S1926), New York (A567/S5641), Vermont (H.114)

## Biometric Privacy Bills

- Arizona (SB 1238), Hawaii (SB 1085), Kentucky (HB 483), Maryland (HB 33/SB 169), Maine (LD 1705), Massachusetts (H.63/S.195), Mississippi (HB 1047/HB 1225), Minnesota (SF 954 / HF 2532), New York (A1362/S4457/S2390), Tennessee (SB 339 / HB 932)

## The Patchwork Dispatch (Keir Lamont)

- <https://www.linkedin.com/newsletters/the-patchwork-dispatch-7009554885507436546/>

## Husch Blackwell

- Privacy Blog – [www.bytebacklaw.com](http://www.bytebacklaw.com)
- Bill Tracker Maps
  - <https://www.huschblackwell.com/2023-state-privacy-law-tracker>
  - <https://www.huschblackwell.com/2023-state-childrens-privacy-law-tracker>
  - <https://www.huschblackwell.com/2023-state-biometric-privacy-law-tracker>

## Future of Privacy Forum

- <https://fpf.org/blog/>

## BBB National Programs

- <https://bbbprograms.org/media-center/bd/insights/2023/04/18/my-health-my-data-act>
- [Children's Advertising Review Unit \(CARU\) \(bbbprograms.org\)](https://bbbprograms.org/childrens-advertising-review-unit-caru)

## IAPP

- <https://iapp.org/resources/article/us-state-privacy-legislation-tracker/>

# Questions and Contacts



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