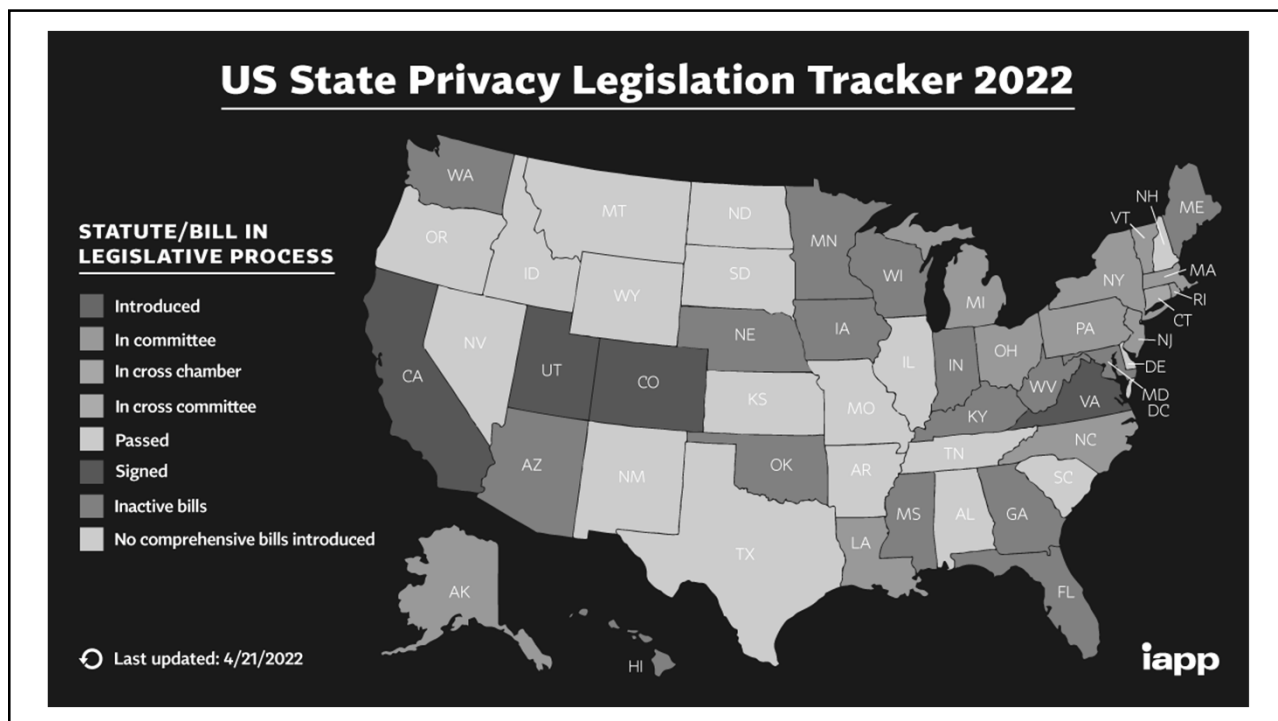
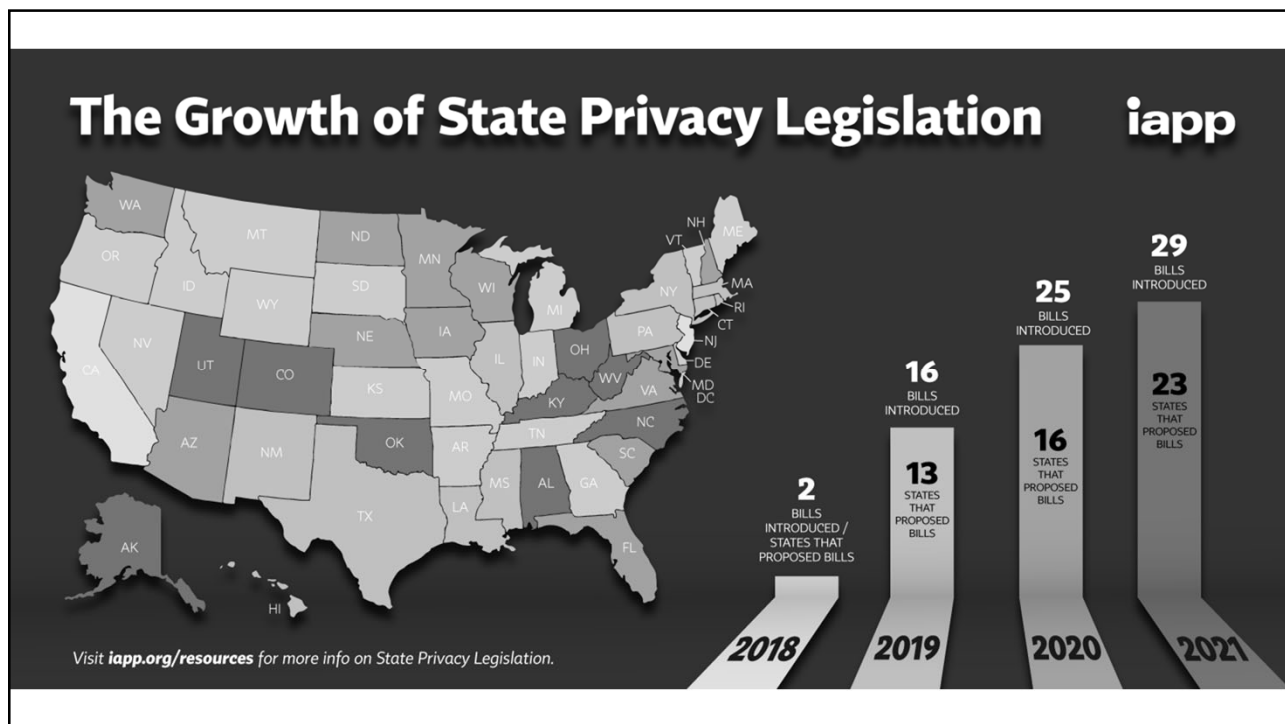


The Changing Landscape of US Privacy Law

Nicole Whitaker

Assistant General Counsel, Commercial and Privacy



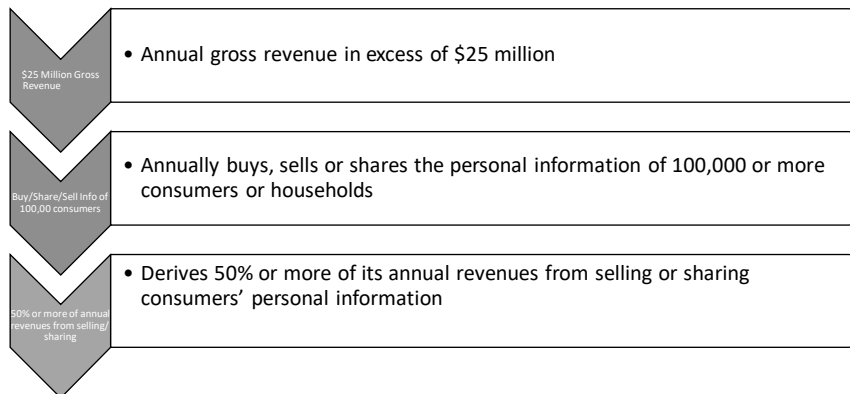


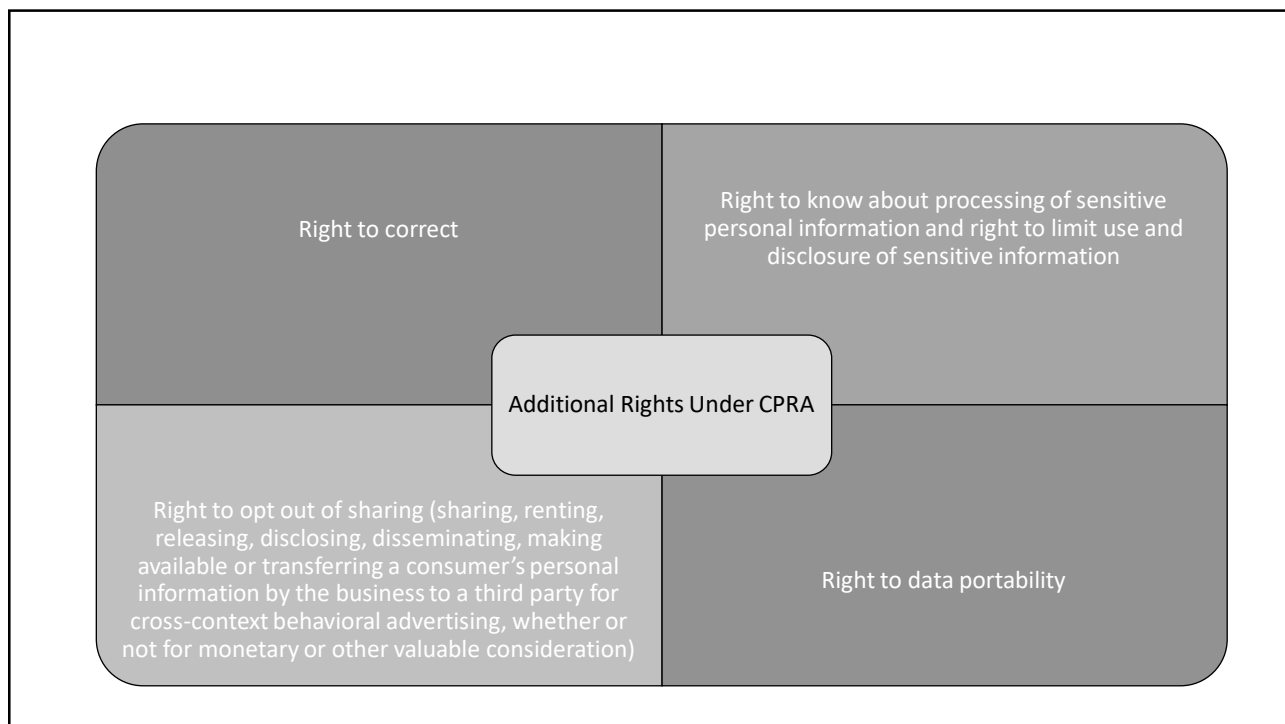
Comparison of All Laws

Right	CCPA	CPRA	VCDPA	CPA	UCPA
Access/Knowledge	✓	✓	✓	✓	✓
Deletion	✓	✓	✓	✓	✓
Rectification	✗	✓	✓	✓	✗
Data Portability	✓	✓	✓	✓	✓
Restrict Processing	✗	✓ (for Sensitive Information)	✓ (Sensitive Info)	✓ (Sensitive Information)	✗
Opt Out of Sale	✓	✓	✓	✗	✓
Opt Out of Share	✗	✓	✓ (in context of targeted advertising)	✓ (in context of targeted advertising)	✓ (in context of targeted advertising)
Data Protection Assessment	✗	✓	✓	✓	✗
Employee Data	✗	✓	✗	✗	✗
B2B Data	✗	✓	✗	✗	✗

CPRA: High Level Overview (Jan 1, 2023)

- Almost the same as CCPA, with slight differences
 - Applies to a “business” or for-profit entity doing business in California that collects or processes consumers’ personal and meets one of the following:

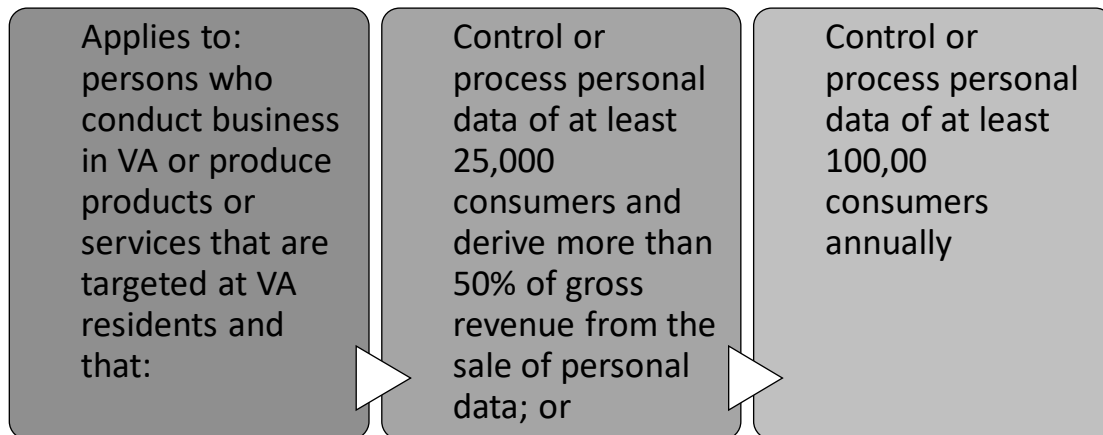




What Else is New Under CPRA?


- Contracts with third parties, contractors and service providers
- Deletion requirements must be sent to service providers and third parties to whom company has sold or “shared” personal information
- Data Protection Assessment for processing personal information that presents significant risks
- Information requests extend beyond 12-month lookback (starting with information collected on or after January 1, 2022)
- Need to provide retention periods in privacy policy

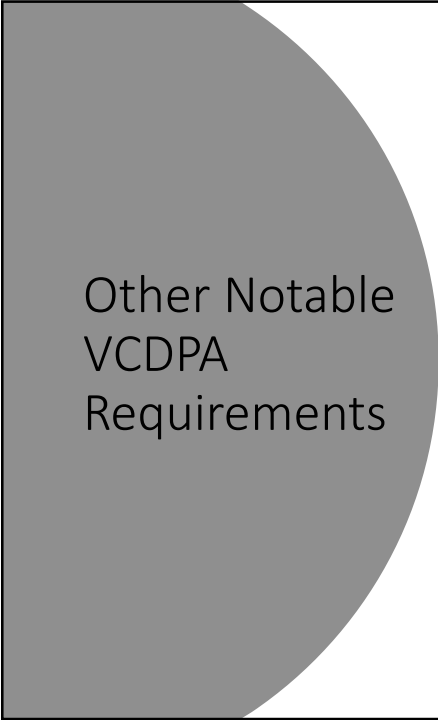
VCDPA: High Level Overview



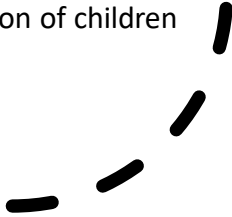


Rights Under VCPA

- Right to know whether a controller is processing the consumer's personal data
 - Right to access personal data processed by a controller
 - Right to correct
 - Right to Delete
 - Right to data portability
 - Right to opt out of targeted advertising, sale of personal data or profiling
- 



Other Notable VCDPA Requirements

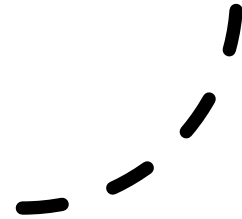
- Contracts with processors
 - Data Protection Assessment for processing personal information that presents significant risks
 - Need consent to process sensitive data (includes personal data revealing racial or ethnic origin, religious beliefs, mental or physical health, sexual orientation, or citizenship or immigration status; processing of genetic or biometric data for the purpose of uniquely identifying a natural person; personal data from a known child; or specific geolocation data.
 - Right to non-discrimination
 - Consent to process personal information of children (same as COPPA)
- 

CPA: High Level Overview (July 1, 2023)

- Applies to:
 - A controller that conducts business in Colorado or produces or delivers commercial products or services that are intentionally targeted to residents of Colorado; and
 - Controls or processes the personal data of 100,000 consumers or more during a calendar year; or
 - Derives revenue or receives a discount on the price of goods or services from the sale of personal data and processes or controls the personal data of 25,000 consumers or more

Rights Under CPA

- Right to access
- Right to correction
- Right to deletion
- Right to data portability
- Right to opt out of targeted advertising, sale of personal data or profiling via universal opt out mechanism



Other Notable CPA Requirements

- Contracts with processors
- Data Protection Assessment for processing personal information that presents heightened risks
- Consent to process sensitive data (personal data revealing racial or ethnic origin, religious beliefs, a mental or physical health condition or diagnosis, sex life or sexual orientation, or citizenship or citizenship status; genetic or biometric data; or personal data from a known child)
- Right to non-discrimination
- Consent to process personal information of children (same as COPPA)

UCPA: High Level Overview (Dec 31, 2023)

- The UCPA applies to for-profit entities ("controllers" or "processors") that (1) conduct business in Utah or target products and services to consumers who are residents of the state, (2) have annual revenues of at least \$25 million, *and* (3) meet one of two threshold requirements:
 - Annually control or process the personal data of 100,000 or more Utah residents ("consumers"); *or*
 - Derive over 50 percent of gross revenue from the "sale" of personal data and control or process personal data of 25,000 or more consumers.

Rights Under UCPA



Access the personal data that a controller processes about them;



Delete personal data that the consumer provided to the controller;



Obtain a copy of the personal data, in a "portable" format, that the consumer provided to the controller; and



Opt out of the "sale" of personal data (defined as disclosure by a controller to a third party for monetary consideration) or processing of personal data for targeted advertising.

Other Notable Requirements Under UCPA

- Contracts with processors that sets out the details of processing
- Controllers must post a privacy notice that contains similar disclosures about their personal data practices to those under other state laws
- Controllers must only provide notice and an opportunity to opt out prior to processing consumer's sensitive data (or comply with the Children's Online Privacy Protection Act (COPPA) for the sensitive data of children under 13) Right to non-discrimination

<p>Notable Exemptions Under UCPA</p>	<hr/>
	<p>Narrow right to delete</p>
	<hr/>
	<p>Exception to sale</p>
	<hr/>
	<p>No right to appeal</p>
<hr/>	
<p>No requirement to conduct data protection assessments</p>	
<hr/>	
<p>No Opt out of profiling</p>	
<hr/>	
<p>No opt in for processing Sensitive data</p>	

What Does This Mean For Organizations?

Update	Update privacy policy
↓	
Determine	Determine retention periods
↓	
Update	Update vendor contracts
↓	
Conduct	Conduct analysis on what information it "shares"
↓	
Update	Update backend processes
↓	
Add	Cookie banner for "Do Not Share" requirement [not required but a potential option]
↓	
Update	Update Do Not Sell Link
↓	
Add	Add "Limit Use of My Sensitive Personal Information" to homepage
↓	
Analyze	Analyze if DPA is required
↓	
Analyze	Analyze whether sensitive information is being processed
↓	
Analyze	Analyze what systems contain employee information and determine backend process for employee requests.