



Synthesizing US state privacy law: Cross-cutting compliance strategies for 2025

Friday, 24 January

07:30–08:30 PST

10:30–11:30 EST

16:30–17:30 CET



Welcome and Introductions

Panelists



Moderator: Müge Fazlioglu
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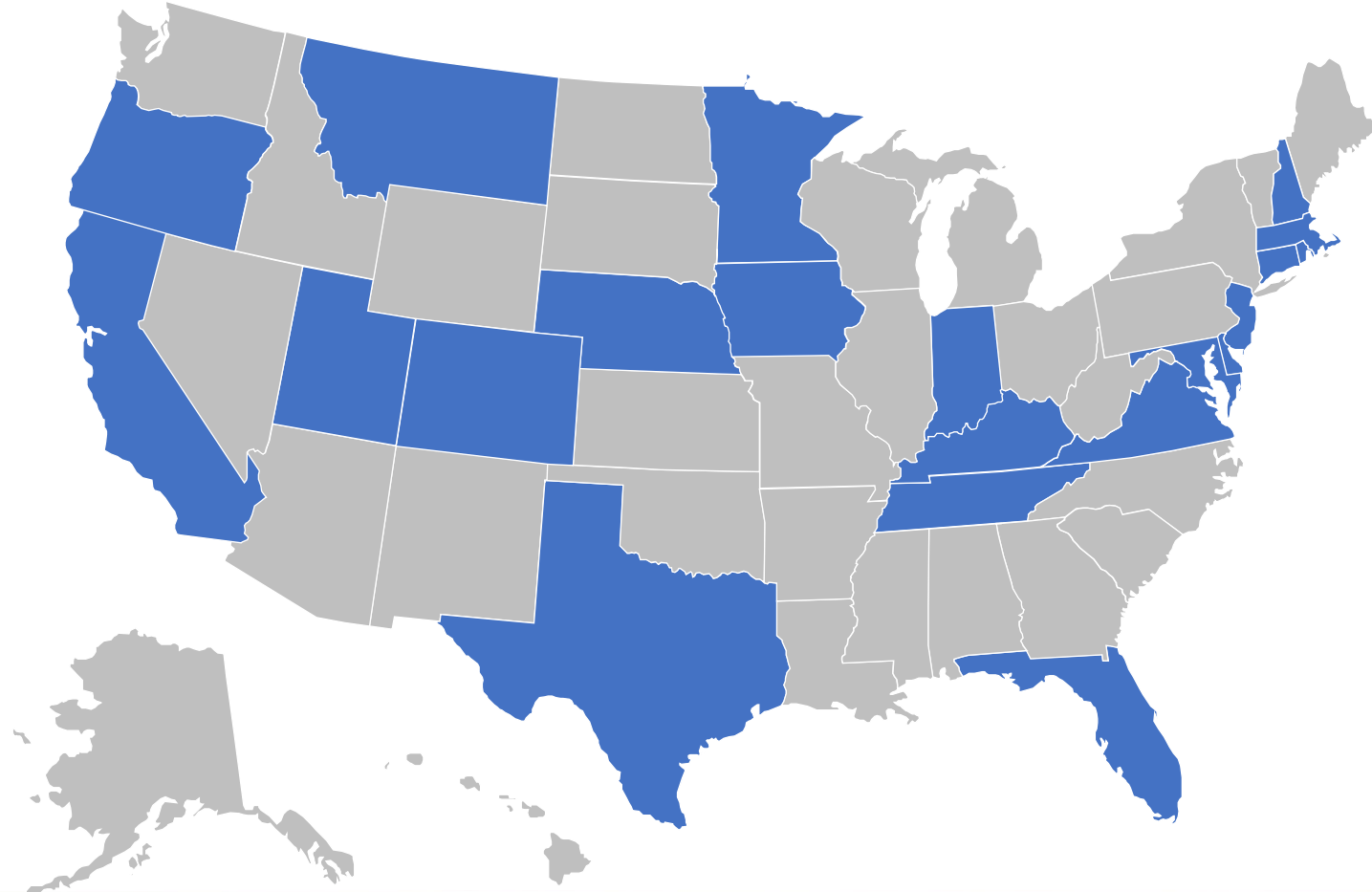


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Enacted Comprehensive Privacy Laws



*Washington My Health My Data Act is a health information privacy law that some describe as a *de facto* comprehensive law.

* The Florida Digital Bill of Rights has a narrow scope and does not apply to business with less than \$1 billion in gross annual revenue.

2025 State Legislative Activity: Data Privacy

- “Comprehensive” laws. Watch for differences on:
 - Data minimization
 - Private right of action
- Narrow, topic-specific laws:
 - Health
 - Children
 - Data brokers

Enforcement Trends

- Personal data sales
 - Recent focus on driver data
- Consumer rights requests
 - Authorized agents
 - Data minimization
- Dark Patterns
- Data Brokers
- Low-Hanging Fruit

Data Minimization

- **Common approach – focus on disclosed purposes:** Collection to be “adequate, relevant, and reasonably necessary” to disclosed purpose. Processing not to be for purposes that are “neither reasonably necessary to nor compatible with” the disclosed purposes, unless consent.
- **Additional compatibility standard in CA:** also allows businesses to process PI if reasonably necessary and proportionate to achieve (i) the purpose collected or processed (incl. a purpose consistent with consumers’ reasonable expectations), or (ii) another compatible purpose.
- **MD, WA MHMDA:** limitation on collection to what is “reasonably necessary and proportionate to provide or maintain a specific product or service requested.” Processing – same standard followed by most common approach
- **No explicit data minimization principle in IA, UT**
- **Exclusions and Limitations (Effectively Permissible Purposes)**



Private Right of Action

- Background
 - PRAs have the ability to sink bills
 - Washington and Vermont
- Proposed Bills
 - Massachusetts and Virginia
- Successful Models
 - California
 - Washington My Health My Data Act
- Compliance Considerations

Automated Decisionmaking and Profiling: Opt-Out Approaches

- **Common Approach:** right to opt-out of profiling that produces legal or similarly significant effects.
 - Profiling as *any form of automated processing* (...)
- **Narrower scope in certain states:** Definition of profiling is limited to *any form of solely automated processing* FL, IN, MD, NE, NH, RI, TX).
- **Broader scope in California:** Opt-out of the business's use of ADMT, including but not limited to profiling.
 - California rulemaking underway; comment period closes Feb. 19
- **Tiered approach in Colorado:** categorizing types of automated processing:
 - Opt-out: solely automated processing OR human-reviewed automated processing.
 - No opt-out: if human-involved automated processing.
- Right to opt-out of profiling **not recognized in Utah and Iowa.**



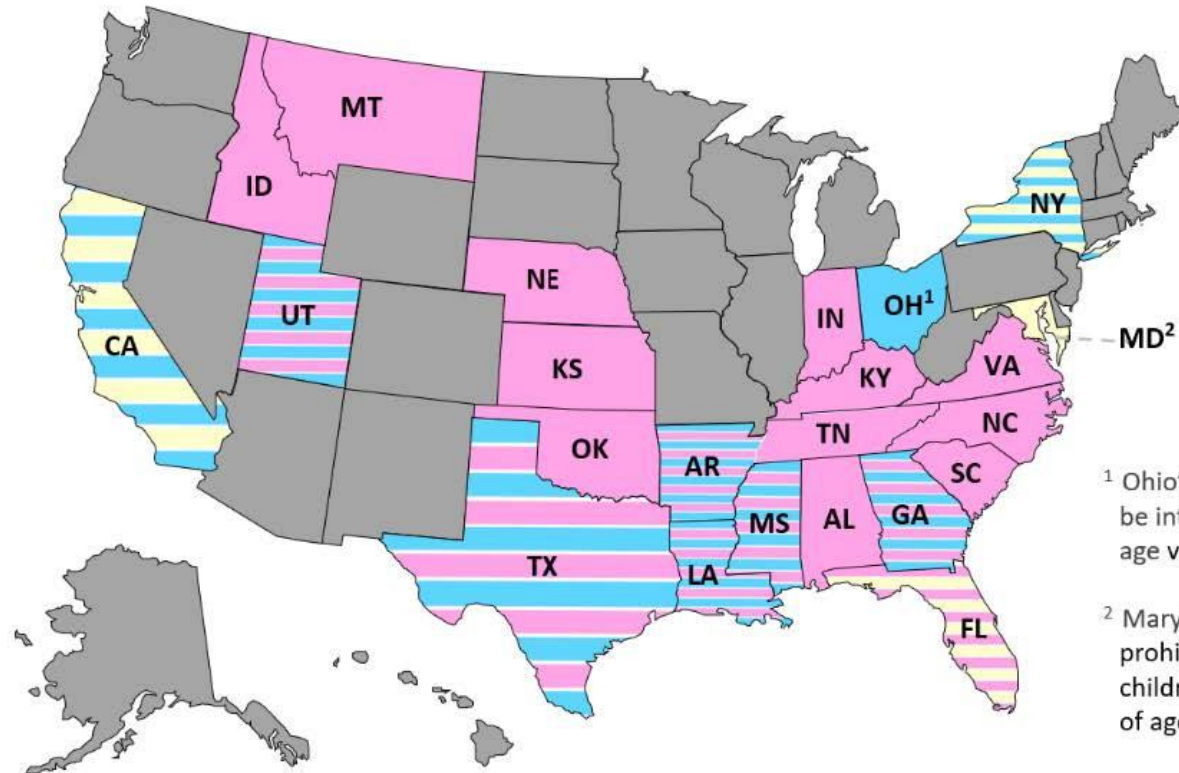
Regulation of Social Media Companies

- Age Verification/Restricting Minors' Access to Social Media
 - Arkansas, Florida, Georgia, Louisiana, Mississippi, Ohio, Texas, Utah
- Addictive Feeds
 - California and New York
- Forthcoming
 - Proposals in Virginia and South Carolina

Age Verification Laws in the U.S.



- 'Harmful to Minors'
- Social Media
- Likely Access or Actual Knowledge



¹ Ohio's law arguably could be interpreted to imply an age verification obligation.

² Maryland's law expressly prohibits any processing of children's data for purposes of age estimation.

Source: Centre for Information Policy Leadership (CIPL) at Hunton Andrews Kurth LLP © 2024

2025 State Legislative Activity: AI

- Algorithmic discrimination
- Risk management for “frontier models”
- Specific concerns around AI development and deployment:
 - Transparency
 - Non-consensual, intimate imagery
 - Liability
- “Comprehensive” bills

Harmonizing Compliance

Prospects for a Federal Privacy Law

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