

# A.D.

## Donor data privacy

Why the Colorado DPA sets a precedent and what you can do about it

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# About me

- Independent consultant on RE7, NXT and other systems.
- In sector 20 years, consultant since 2008.
- I work with clients in US and UK. Current split about 70/30.
- I'm interested in how privacy law is evolving and the contrasts I see in how it affects fundraising ops of my US and UK clients.
- *Disclaimer: this webinar does not constitute legal advice and I'm not a data privacy expert or a lawyer. Please seek legal guidance specific to your organization on the topics discussed.*

# What we'll cover today

- US consumer data privacy law is evolving fast.
- The Colorado DPA and why it sets a precedent.
- What you can do to prepare.
- Some words of caution about Raiser's Edge.
- Resources and links to further information.
- Q&A!

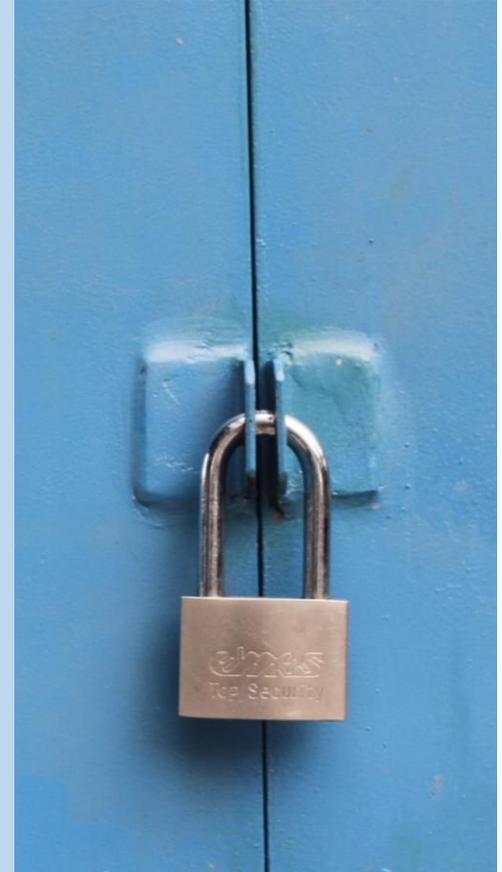


Image credit: Muhammad Zaay Al Fattah on Unsplash

# But first, some definitions

- ***Personal data*** = any information that can be connected to a person.
  - Names, addresses, emails, phones, social media handles, geographic locators, connections, employment...
- ***Processing*** = any kind of handling of personal data (acquiring it, storing it, using it etc.)
- → Combine the two = what we all do on a daily basis!
- ***Controllers*** = orgs that acquire and use data (nonprofits)
- ***Processors*** = third parties that process it (database providers)
- ***Consumer data*** = donor data.

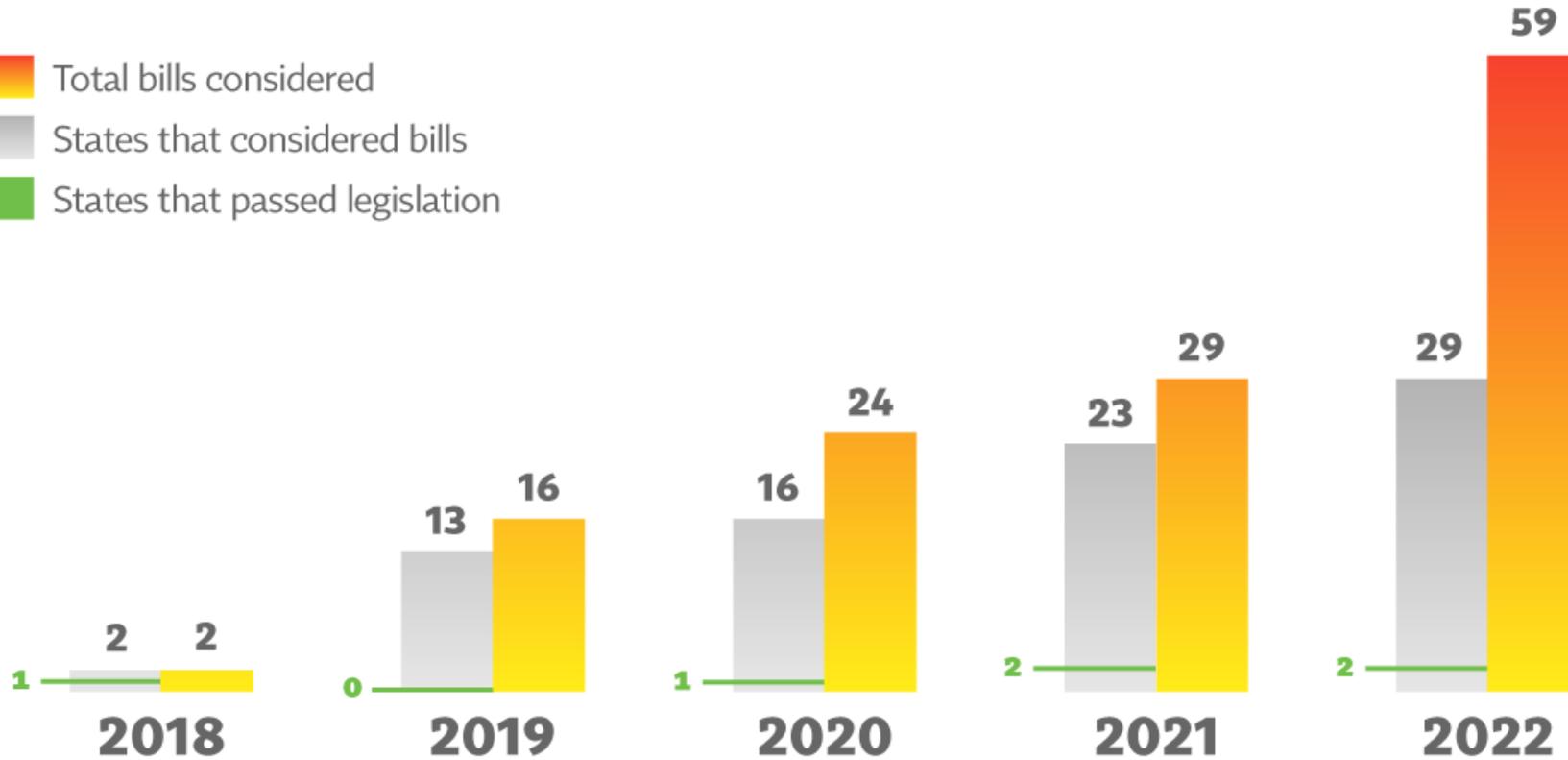
# The upward trend

## The Growth of State Privacy Legislation

iapp.org

Comprehensive consumer privacy bills considered from 2018-2022

- Total bills considered
- States that considered bills
- States that passed legislation



# Colorado Data Privacy Act

- First state-level act in recent flurry of privacy laws that doesn't explicitly exclude nonprofits.
- Thresholds for compliance (100k residents processed/year or 25k/year and selling lists) sound generous but when you add up all the places and ways in which information is stored, you may be closer than you think.
  - If your org doesn't meet the threshold now, will it in a year? 5 years?
- Organizations have to provide a tool for consumers to globally opt-out of communications and having their data processed.

# Colorado Data Privacy Act

- Bottom line: if you have the time and resources to use the DPA as a playbook, and get your data and processes up to compliance, you'll be very well placed to respond to future legislation that *does* apply to your state/org size.



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# Crystal ball

- Expect more state-level legislation. Might be like Virginia and Connecticut; might be like Colorado. Will definitely have similarities to elements of HIPAA, FERPA and the EU GDPR (though not as wide reaching as the latter).
- Federal...at some point. When, not if.
- A way to go to reach parity with what many other countries are doing but the trend is there.
- Consumers (donors) will expect more rights and careful handling of their data, even if legislation in their state isn't there yet.

# Lessons learned

- Nonprofits are typically overlooked in guidance, or that guidance comes too late to be useful. The focus is on corporate behavior. Nonprofits get lost in the mix.
- Look to well-resourced large orgs and representative bodies to navigate the legalities, but...
- ...don't wait for them. Never too soon to figure out best practices for yourself, aim for high standards and future-proof your operations.
- See white paper for detailed lessons learned from EU GDPR.

# To do

1. Inventory/data “cookbook”
2. Audit the ways you’re collecting preferences and consent
3. Spread the word, get staff and board interested in this now so it’s second nature by the time you need it
4. Turn down the tap: harness data minimization to reduce risk
5. Incorporate privacy and preferences into your marketing and stewardship.
6. Look for the opportunities

# 1. Inventory of data

- The Kennesaw approach #1: compile a data cookbook.
- Know what you have and why you have it.
- Flag up the personal data locations.
- Not just your donor database. Events, giving platforms, spreadsheets, apps, email contact lists...
- Record volume gotchas: if you've moved gifts of lapsed donors to an anonymous record and each of those gifts contains a name, that counts as one person.

## 2. Audit preferences and consent

- How are you currently gathering preferences and/or consent, if at all?
- Where are all the places you *could* be doing this? Email signups, giving forms, event registrations, membership forms, alumni welcome packs, parent forms, volunteer forms, new staff forms...
- Examine end-user experience: what do they see, what might they assume or expect, where are the gaps and errors?
- Store where you got consent/opt-ins from, so you have a record of it.
- Store the constituent's preferences, so you can use it effectively when compiling communications.

# 3. Spread the word

- The Kennesaw approach #2: get everyone on board.
- Form a task force to examine current processes and identify weak spots.
- Educate staff, board. Explain the benefits of getting out in front of privacy law early: reduced impact on time and resources later on and reduced risk of contravening new laws (\$\$\$ fines).
- Encourage them to take ownership and spot the opportunities: incorporating preferences into marketing (see later slide) and everyday work.

# 4. Embrace data minimization

- Reduce surplus information, reduce risk. Less to lose in a breach, less likely to store something you shouldn't be keeping.
- Make a conscious switch. Think about what the donor would think about you storing this information. What would they expect? Is it reasonable? What about in future?
- Find a mantra and train staff to follow it.
  - If in doubt, leave it out!
  - If you don't *need* it, don't *keep* it!
  - Won't use it? Lose it!
- Bonus: leaner, cleaner databases can be cheaper too.

# 5. Incorporate it into marketing

- The Calgary Public Library approach: incorporate preferences into a “welcome series” for new constituents.
- Reiterate/explain where you got their signup from (a gentle reminder), when and how they can expect to hear from you, and how they can alter their preferences if they wish to.
- Set expectations and draw attention to your org’s careful handling of preferences and personal data.
- The message: **We take this seriously. We can be trusted.**

## 6. Look for opportunities

- This is the time to tackle the cleanup and purging you've been putting off.
- It's a chance to overhaul your processes and bring some focus to training and education if those are on the to-do list.
- Need to convince management that you need resources to do this now? Tell them Amy says it'll cost more if you leave it until the last minute 😊

# Raiser's Edge: some words of caution

- Don't rush to set up Consents in RE. It takes some planning and is not a tool without fault (see my mini-rant about its shortcomings at [amydaultrey.com/resources](https://amydaultrey.com/resources)).
- Don't wait for features to be improved that support privacy requirements. **Assume you'll be working with the tools you have right now.**
- Don't wait for new guidance. If you're keen to use Consents in any of Blackbaud's products start here (from 2018): [docs.blackbaud.com/communication-preferences](https://docs.blackbaud.com/communication-preferences)

# Resources & links

- Guide to the Colorado DPA for nonprofits: [goldendatalaw.com/blog/5-tips-for-nonprofits-on-colorados-new-privacy-law](https://goldendatalaw.com/blog/5-tips-for-nonprofits-on-colorados-new-privacy-law)
- Detailed comparison chart of Colorado, Virginia and California Acts: [iapp.org/resources/article/comparison-comprehensive-data-privacy-laws-virginia-california-colorado/](https://iapp.org/resources/article/comparison-comprehensive-data-privacy-laws-virginia-california-colorado/)
- Track state legislation: [iapp.org/resources/article/us-state-privacy-legislation-tracker](https://iapp.org/resources/article/us-state-privacy-legislation-tracker)
- and federal: [iapp.org/resources/article/us-federal-privacy-legislation-tracker](https://iapp.org/resources/article/us-federal-privacy-legislation-tracker)
- Freebies at [amydaultrey.com/resources](https://amydaultrey.com/resources): Kennesaw case study & tips, white paper & GDPR lessons learned, quick guides to data minimization, Colorado, sharing data, RE Consents and a sample RE Consents setup. Watch this space for more.

# Thank you!

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- [linkedin.com/in/amydkrishnaswamy](https://linkedin.com/in/amydkrishnaswamy)
- See you at [AASP Summit](#) in September!

