

A.D.

Donor data privacy

What's new in privacy law & what you can do about it

Amy D. Krishnaswamy 25th May 2023

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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 contrasts I see in how it affects fundraising ops of 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

- Snapshot of US privacy law
- What's been happening since my last webinar in January
- What you can do now, 6 tips
- Resources and links to further information
- Q&A

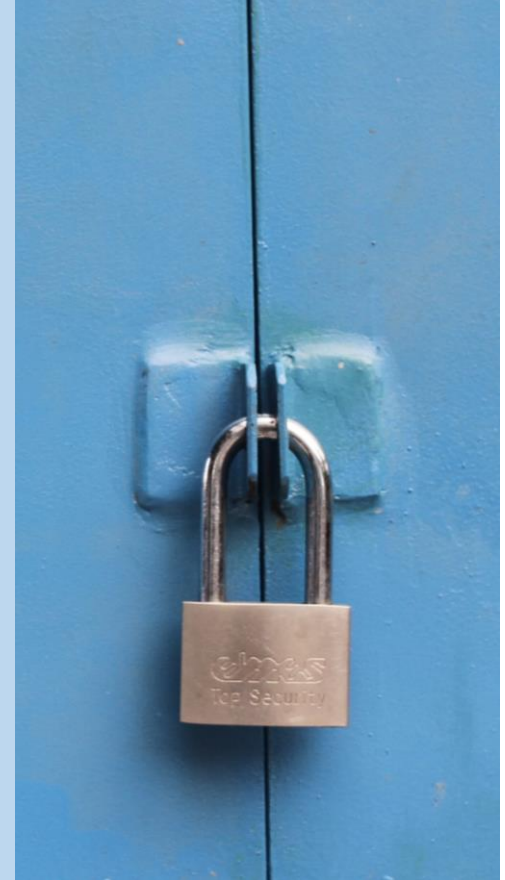


Image credit: Muhammad Zaqy Al Fattah on Unsplash

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. Donors won't see any difference.***

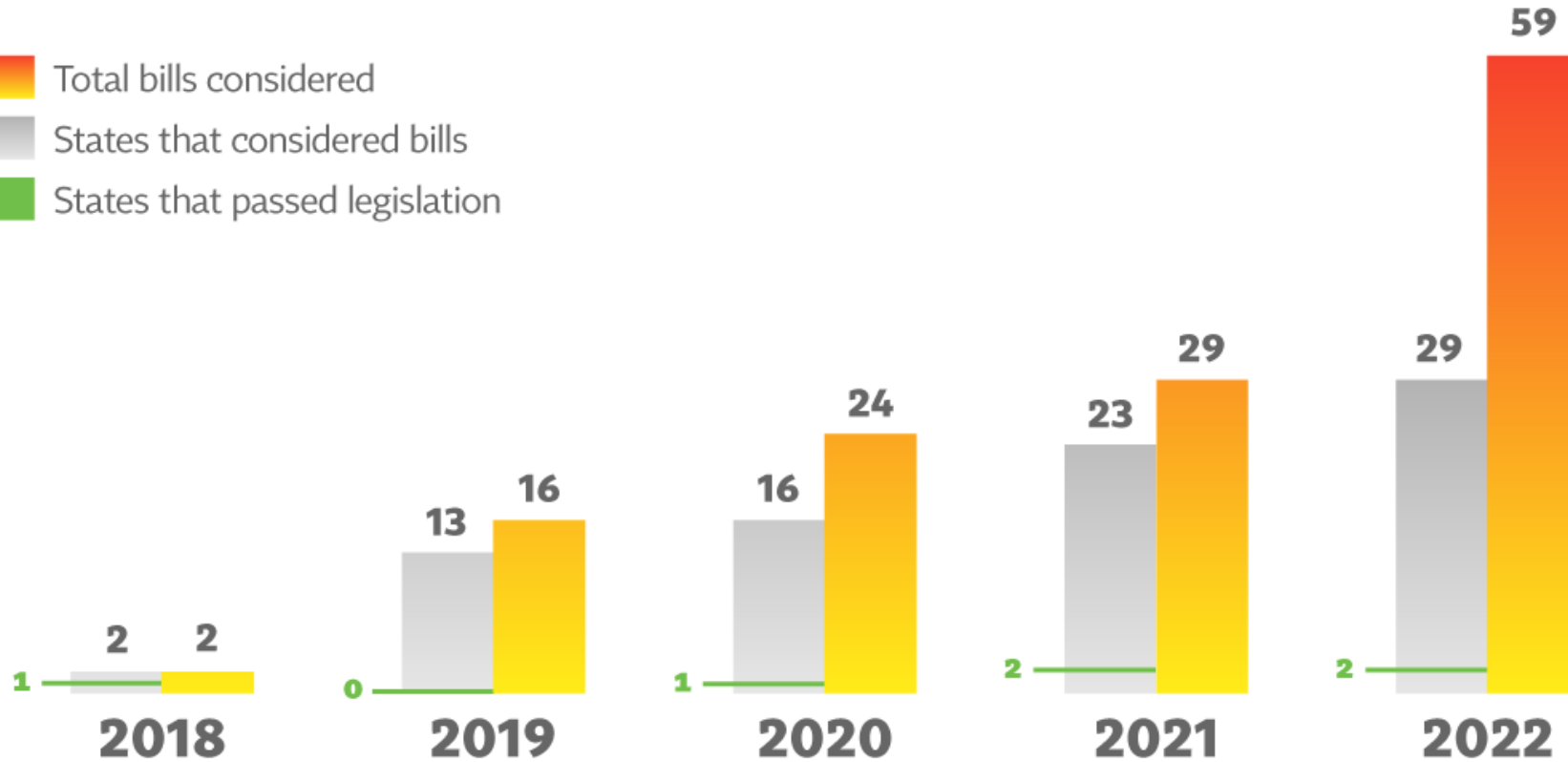
The upward trend

The Growth of State Privacy Legislation

iapp.org

Comprehensive consumer privacy bills considered from 2018-2022

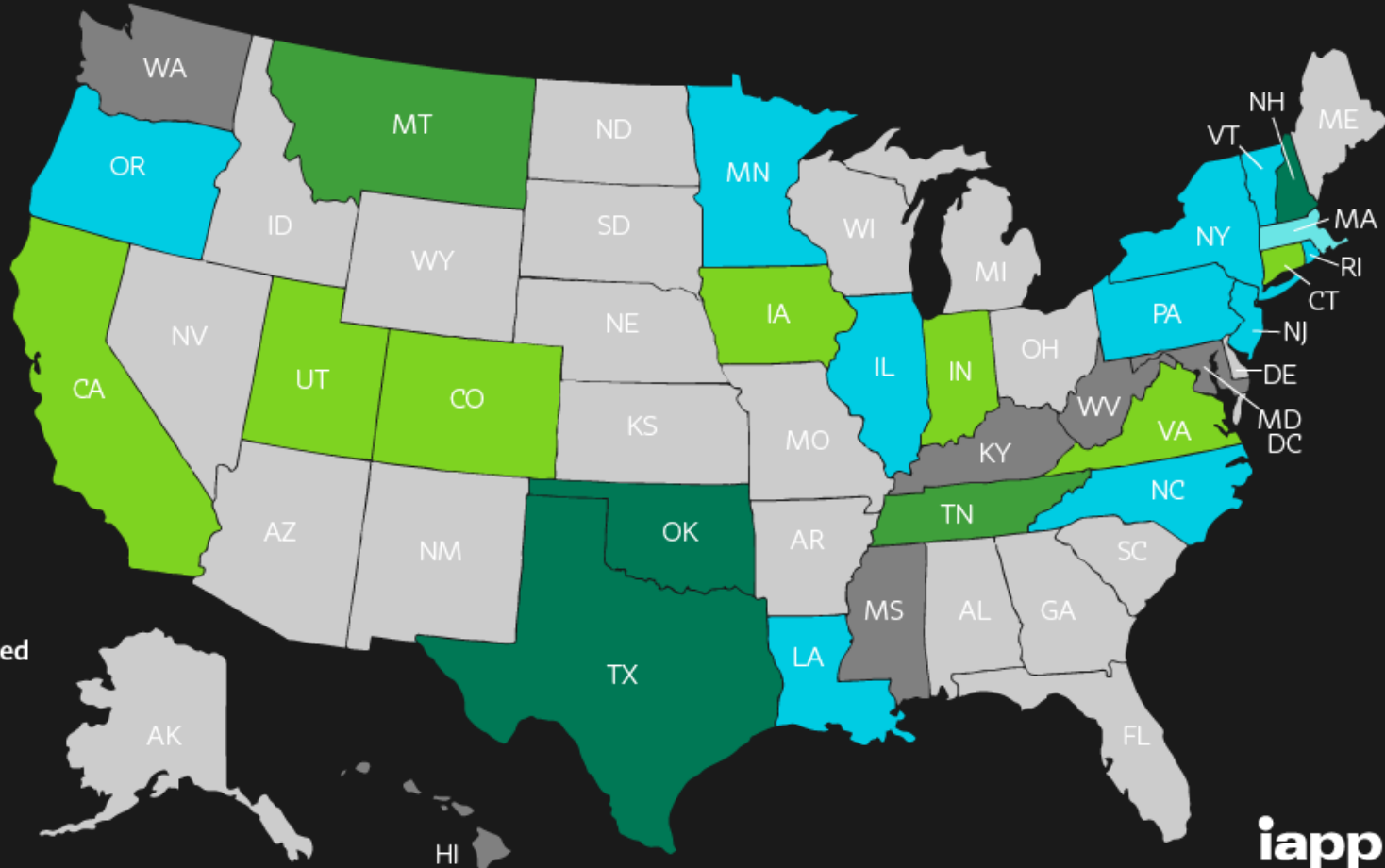
- Total bills considered
- States that considered bills
- States that passed legislation



US State Privacy Legislation Tracker 2023

STATUTE/BILL IN LEGISLATIVE PROCESS

- Introduced
- In committee
- In cross chamber
- In cross committee
- Passed
- Signed
- Inactive bills
- No comprehensive bills introduced



🔄 Last updated: 5/5/2023

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The newest laws

- Colorado Privacy Act (effective July 1, 2023): doesn't explicitly exclude nonprofits; compliance required if processing info of 100k residents/year or 25k/year and selling lists.
- Indiana Consumer Data Protection Act (effective January 1, 2026): nonprofits exempt.
- Iowa Consumer Data Protection Act (effective January 1, 2025): nonprofits exempt.

But...even if your org is exempt, donors (consumers) will still increasingly expect particular rights and handling of their info.

Common features of these laws

- All steps taken to secure personal data and minimize what is stored.
- Clear statement about what info is collected and why. Only use data for purposes consumer would expect (unless you have specific consent). Update it if you start collecting new sources/kinds of data.
- Consumers able to choose what kinds of communication they want to receive.
- Provide a tool for them to easily opt-out of communications and having their data processed.
- Instructions for consumers on how they can request to view their info and/or have it deleted. Procedures in place to respond promptly.

Bottom line

- When, not if.
- Federal might follow trend of states exempting nonprofits...or it might not.
- Regardless, consumers will increasingly be aware of their rights and have particular expectations of all orgs they interact with.



Image credit: Aimur Khasanov on Unsplash

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 the 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. Stuck? Use Colorado Act as a guide to what would be considered ‘personal’.
- 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/personal info, 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, new donor emails, event registrations, membership forms, alumni welcome packs, parent forms, volunteer 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 thoughtfully, so you can use them 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, 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 feature. It takes some planning and is not a tool without fault (see PDF at amydaultrey.com/resources).
- Don't wait for new guidance. If you're keen to use Consents start here (from 2018): docs.blackbaud.com/communication-preferences
- Don't wait for features to be improved that support privacy requirements. **Assume you'll be working with the tools you have right now.**
- Utilize Blackbaud's updated privacy hub, especially if you use multiple products: <https://docs.blackbaud.com/privacy/>

Resources & links

- Guide to the Colorado act for nonprofits: goldendatalaw.com/blog/5-tips-for-nonprofits-on-colorados-new-privacy-law
- Track state legislation: iapp.org/resources/article/us-state-privacy-legislation-tracker
- and federal: iapp.org/resources/article/us-federal-privacy-legislation-tracker
- Freebies at amydaultrey.com/resources: Kennesaw case study & tips, white paper & GDPR lessons learned, quick guides to data minimization, the Colorado precedent, sharing data, RE Consents and a sample RE Consents setup.

Thank you!

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- linkedin.com/in/amydkrishnaswamy
- Hope to see you at [AASP Summit](#) in September!

