



COLORADO

Privacy Act

Last updated: January 2025

Please note this is a highlighted overview and not a complete overview of privacy laws for this state. If you would like a complete review of this state's privacy laws or a multi-state privacy compliance cheat sheet on specific topics, please contact Vivien Peaden at vpeaden@bakerdonelson.com.

Disclaimer: These materials do not constitute legal advice and should not be substituted for the advice of legal counsel.

The Colorado Privacy Act

Effective Date: July 1, 2023, as amended by House Bill 1130 and Senate Bill 041 in 2024.

Overarching Law: The Colorado Privacy Act (CPA) was passed as a sub-part of the Colorado Consumer Protection Act. Please note that many parts of the CPA, such as remedies and limitations, are further governed by the Colorado Consumer Protection Act.

- 1. Applicability Thresholds:** Subject to certain entity-level and data-level exemptions, this law applies to a Controller who conducts business in the State of Colorado or produces or delivers commercial products or products or services that intentionally are targeted to Colorado residents (**consumer**); and controls, processes, and satisfies one or both of the following:



100,000+ Colorado consumers' personal data, during a calendar year;

or



25,000+ Colorado consumers' personal data and derived **any** revenue or received a discount on the price of goods or services from the sale of personal data.

- 2. Key Definitions:**



Sales of Personal Data: Similar to California, "Sale," "Sell," or "Sold" is broadly defined to include the exchange of personal data for not only monetary compensation but also "**other valuable consideration**," subject to certain exemptions.



Sensitive Data: The CPA requires a Controller to obtain consumer consent before processing sensitive data by a Controller. Sensitive data includes:

- 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;
- personal data of known children under the age of 13;
- biological data, which is defined as "*data generated by the technological processing, measurement, or analysis of an individual's biological, genetic, biochemical, physiological, or neural properties, compositions, or activities or of an individual's body or bodily functions, which data is used or intended to be used, singly or in combination with other personal data, for identification purposes. 'Biological data' includes neural data.*"
 - As of August 7, 2024, biological data also includes all neural data, which is defined as "*information that is generated by the measurement of the activity of an individual's central or peripheral nervous systems and that can be processed by or with the assistance of a device.*"

- 3. Heightened Protection for Minors Under the Age of 18:**



Effective October 1, 2025, Senate Bill 041 amends the CPA to introduce the definition of "**Minor**" as **any consumer who is under 18 years of age**, similar to the requirements under the Connecticut privacy laws.

4. **Business Obligations:** The CPA imposes additional obligations on persons who, alone or jointly with others, determine the purposes for and means of processing personal data (Controller).



Data Processing Agreement (DPA): Processing activities by a supplier (Processor) shall be governed by a DPA between the Controller and Processor.



Data Protection Assessment. Yes, where processing activities present a heightened risk of harm to consumers (including Minors), including targeted advertising, certain high-risk profiling, sales of personal data, and processing sensitive data (including biometric data with amended definition under House Bill 1130), among others.



Privacy Notice: A Controller must provide consumers with a privacy notice.



Universal Opt-out Mechanism: Beginning on July 1, 2024, the CPA requires Controllers to recognize one or more universal opt-out mechanism(s) published on the CO attorney general's Universal Opt-out Shortlist, including the Global Privacy Control.

5. **Consumer Rights:** Subject to certain exceptions, a Colorado consumer has the right to:



Confirm whether or not a Controller is processing their personal data and **access** the categories of data being processed;



Correct inaccuracies in the consumer's personal data;



Delete personal data provided by, or obtained about, the consumer;



Obtain a copy of the personal data of a consumer no more than twice per calendar year.

and



Opt-out of data processing for targeted advertising, sales of personal data, and profiling for decisions that produce legal or similarly significant effects concerning a consumer.

6. **Enforcement and Penalties:**



Private Right of Action: None



Penalties: Up to \$20,000 per violation; and up to \$50,000 per violation if a deceptive trade practice is committed against a senior citizen over the age of 60.



Cure Period: 60-day cure period. Such a cure period was only available until January 1, 2025.