

Minnesota Consumer Data Privacy Act

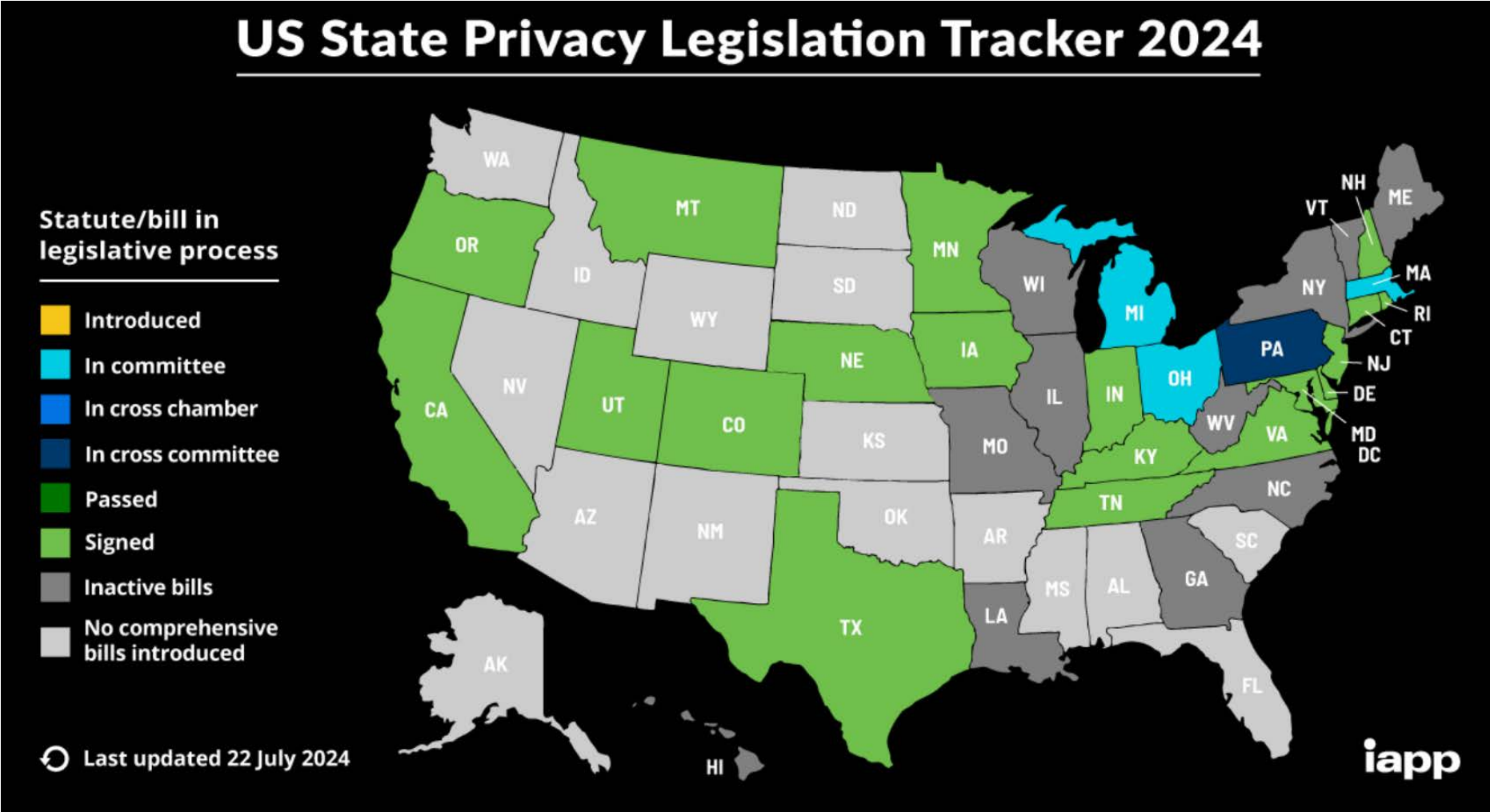


**Minnesota
House of
Representatives**

Representative Steve Elkins | House District 50B

Rep.Steve.Elkins@House.MN

Status of State Data Privacy Laws in 2024



Summary of Basic Rights by State

- There is a high degree of commonality among the state laws.
- The business community places a very high value on consistency across states.
- Most of the “standard” provisions in the CT/MN laws can be considered “settled”

RIGHTS

RIGHT	CA	CO	CT	IN	IA	MT	OR	TN	TX	UT	VA
Know	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Access	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Obtain list of 3d Parties to Which Personal Data Was Disclosed	✗	✗	✗	✗	✗	✗	✓	✗	✗	✗	✗
Data Portability	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Delete	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Correct inaccuracies	✓	✓	✓	✓	✗	✓	✓	✓	✓	✗	✓
Not be discriminated against	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Opt-out of sale	✓	✓	✓	✓	✓ ¹	✓	✓	✓ ¹	✓	✓	✓
Opt-out of targeted advertising / sharing	✓	✓	✓	✓	? ²	✓	✓	✓ ¹	✓	✓	✓
Opt-out of certain types of profiling	✓	✓	✓	✓	✗	✓	✓	✓ ¹	✓	✗	✓
Recognize opt out signals	✓ ³	✓	✓	✗	✗	✓	✓	✗	✓	✗	✗
Revoke consent	N/A	✓ ³	✓	✗	✗	✓	✓	✗	✗	✗	✗

1 Contains pseudonymous data carve out
 2 Right is not listed in consumer rights provision, but controllers must provide means to opt out
 3 Right provided through rulemaking

Legend
 ✓ - Right provided
 ✓ - Right partially provided
 ✗ - Right not provided
 ? - Unclear if right provided

Enhancements in MN HF2309

- Improved definition of precise geolocation
 - Latitude/Longitude accurate enough to identify a street address
- Reidentification of deidentified data by 3rd Parties Prohibited
- Explicit “Privacy by Design” requirement in annual assessments
 - Data minimization
 - Data retention
 - Data inventory
- Fair Credit Reporting Act protections extended to other “Profiling”
 - Right to view and correct data and have profiling rerun.
 - Right to an explanation of profiling process and results
 - Eliminates the need for separate AI “Automated Decision-making” Legislation

Heavily negotiated points

- Definition of Sale (Cash only vs Cash or other valuable consideration)
- Exclusions sought for financial services industry & non-profits
- Definition of Specific Geolocation Data
- Inclusion of “privacy by design” requirements in annual assessment
- Right to cure (Temporary)
- Organization size threshold (Small Business Exemption)
- Private Right of Action (no state has granted it, yet.)

Keys to Success

- Minimize deviations from the WPA template (CT Version)
 - Point to Commonalities with previously passed bills
 - *You can engage in selective cherry-picking*
- Communicate Proactively with Stakeholders
- Vet your bill with trusted stakeholders from all perspectives
 - Kier Lamont (Future of Privacy Forum)
 - Dave Stauss (Husch-Blackwell)
 - Matt Schwartz (Consumer Reports)
 - Stacy Tsukayama (Electronic Frontier Foundation)
 - Andrew Kingman (State Privacy & Security Coalition – Business Community)



Minnesota House of Representatives

Thank You

Rep. Steve Elkins

Rep.Steve.Elkins@House.MN

651-296-7803 (Office)