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THE CALIFORNIA PRIVACY RIGHTS ACT LEADS THE WAY ON WAVE OF STATE PRIVACY LEGISLATION

California's new consumer privacy act, which takes effect on January 1, 2023, creates new rights for consumers and new obligations for covered businesses. In this article, the authors describe the various changes the act has made to existing privacy law, from a new enforcement agency to enhanced consumer rights. The authors conclude comparing the new act to recent legislation in Virginia, Colorado, and Utah.

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California passed the California Consumer Privacy Act (“CCPA”) in 2018, which established new-for-the-U.S. consumer privacy rights and associated obligations for covered businesses. Then, in November 2020, California voters passed the California Privacy Rights Act (“CPRA”) via ballot initiative to enhance and amend the existing consumer privacy rights and protections codified in the CCPA. The CPRA builds on the CCPA’s structure and definitions, and it creates new rights for consumers and new obligations for covered businesses. California, however, was not the only state to alter its consumer privacy framework recently.

Virginia (with the *Virginia Consumer Data Protection Act*, effective January 1, 2023) and Colorado (with the *Colorado Privacy Act*, effective July 1, 2023) joined California in enacting comprehensive privacy legislation in 2021, and Utah (with the *Utah Consumer Privacy Act*, effective December 31, 2023) recently passed similar legislation in March 2022. None of these laws are identical, but they do build upon common principles and share similar consumer protection concepts. This wave of legislation can be categorized into two groups: California, which relies on its own novel framework of protecting “consumers” and placing

obligations on “businesses” and “service providers,” and the other three states, which rely on those privacy efforts popping up across the country, as inspired by Washington state’s developing legislation, known commonly as the Washington Privacy Act, as well as the EU’s General Data Protection Regulation, which empower “consumers” and place obligations on “controllers” and “processors.”

This article seeks to summarize important characteristics of the CPRA and highlight differences between the four pieces of legislation scheduled to take effect in the next couple years.

CPRA’S CHANGES TO THE CCPA

The CPRA, which takes effect on January 1, 2023, makes substantive changes to the CCPA and instructs the California Attorney General and the new California Privacy Protection Agency to address additional substantive issues by engaging in expanded rulemaking. Some of the most significant changes include the following:

New Enforcement Agency: The CPRA creates the first state privacy agency in the U.S., called the

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