

Blog | Data, Privacy & Cybersecurity



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Understanding the Differences in the State Privacy Laws: What Is Publicly Available Information?

Most modern state data privacy laws exempt from their definition of personal information “publicly available information.” What constitutes publicly available information differs between state privacy laws and may not correlate to the lay definition understood by many businesses and individuals. For example, while some businesses may consider information available on the internet “publicly available information,” most data privacy statutes would not classify all internet-accessible information as “publicly available.” The following chart compares the definition of publicly available information between and among modern state privacy laws:

Key:

✓	Data type is included in the statute’s definition of “publicly available information.”
*	Data type is included in the statute’s definition of “publicly available information.”
?	Data type potentially is included in the statute’s definition of “publicly available information.”

What constitutes publicly available information?	California 2022 CCPA	California 2023 CPRA	Virginia 2023 VCDPA	Colorado 2023 CPA	Utah 2023 UCPA	Connecticut 2023 CTCPA
<u>Government sourced:</u> Information made available from federal, state, or local government records.	✓ ¹	✓ ²	✓ ³	✓ ⁴	✓ ⁵	✓ ⁶
<u>Media sourced:</u> Information published within widely distributed media.	✗	✓ ⁷	✓ ⁸	✗ ⁹	✓ ¹⁰	✓ ¹¹
<u>Data Subject-sourced:</u> Information made available to the general public by the data subject.	✗	✓ ¹²	✓ ¹³	✓ ¹⁴	✓ ¹⁵	✓ ¹⁶

¹ Cal. Civ. Code § 1798.140(o)(2) (West 20202).

² CAL. CIV. CODE § 1798.140(v)(2) (West 2021).

³ Va. Code § 59.1-571 (2021).

⁴ C.R.S. § 6-1-1303(17)(b) (2021).

⁵ Utah Code Ann. § 13-61-101(29)(a) (2022).

⁶ Conn. Sub. Bill No. 6, § 1(25) (enacted by legislature April 28, 2022).

⁷ CAL. CIV. CODE § 1798.140(v)(2) (West 2021).

⁸ Va. Code § 59.1-571 (2021).

⁹ While media-sourced information is not defined as being publicly available under the CPA, note that the CPA includes exceptions for specific compliance obligations (e.g., classification of data transfer as a sale) for information “intentionally made available by a consumer to the general public via a channel of mass media” See C.R.S. § 6-1-1303(23)(b)(V)(B) (2021).

¹⁰ Utah Code Ann. § 13-61-101(29)(b) (2022).

¹¹ Conn. Sub. Bill No. 6, § 1(25) (enacted by legislature April 28, 2022).

¹² CAL. CIV. CODE § 1798.140(v)(2) (West 2021).

¹³ Va. Code § 59.1-571 (2021).

¹⁴ C.R.S. § 6-1-1303(17)(b) (2021).

¹⁵ Utah Code Ann. § 13-61-101(29)(b) (2022).

¹⁶ Conn. Sub. Bill No. 6, § 1(25) (enacted by legislature April 28, 2022).

What constitutes publicly available information?	California 2022 CCPA	California 2023 CPRA	Virginia 2023 VCDPA	Colorado 2023 CPA	Utah 2023 UCA	Connecticut 2023 CTCPA
Second party sourced: Information made available by a person to whom the consumer has disclosed the information (and the data subject has not restricted the information to a specific audience)	x	✓ ¹⁷	✓ ¹⁸	x	✓ ¹⁹	x
Internet sourced: Information published on the internet (but not directly published by the data subject).	x	? ²⁰	x	x	x	x

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¹⁷ CAL. CIV. CODE § 1798.140(v)(2) (West 2021).

¹⁸ Va. Code § 59.1-571 (2021).

¹⁹ Utah Code Ann. § 13-61-101(29)(c) (2022).

²⁰ Information obtained from the internet does not fall under the definition of “publicly available”; however, the CPRA separately exempts from the definition of “personal information” other “lawfully obtained, truthful information that is a matter of public concern.” Cal. Civ. Code § 1798.140(v)(2) (West 2021). To the extent that a business obtains information from the internet that is truthful and a matter of public concern, this exception may apply.

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