

NYS PRIVACY LEGISLATION:  
CONSIDERATIONS FROM NON-PROFITS

DRAFT OPEN LETTER TO LEGISLATURE

Nonprofit organizations provide indispensable services, information, cultural enrichment, education, and more to New Yorkers. We write with concerns about how data privacy legislative proposals would impact our organization.

We support the goals of data privacy legislation to protect consumers from unwanted commercial activities that collect and process their personal information. However, as nonprofit membership organizations that do not engage in commercialization of consumer data, data privacy legislation could create significant administrative and financial burdens on an industry outside the scope of the bill's stated intent.

Each nonprofit organization—whether large or small, statewide or local—would incur its own legal, administrative, technical, and operational burdens and costs to comply with data privacy legislation. These costs will not be insignificant.

The California Department of Finance analyzed the compliance costs for the less-far-reaching California Consumer Privacy Act and determined the initial costs ranged from \$25,000 to \$50,000 for small to medium businesses.<sup>1</sup> The California Attorney General's analysis found compliance costs to be much higher.<sup>2</sup>

The compliance costs imposed upon nonprofits would divert limited resources away from their mission-oriented services. Nonprofits run on very tight budgets, and this legislation would therefore necessarily take away from our mission and vital program work.

Including nonprofits will not further the goals of the legislation. Nonprofit organizations already protect and safeguard their members' data and other data necessary for fundraising and communications. Maintaining that data is vital for donation campaigns, membership drives, and other promotional events that generate nonprofit revenue. Careful recordkeeping is also required under IRS rules and New York State regulations.

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<sup>1</sup> *Economic and Fiscal Impact Statement*, Department of Finance, State of California, Aug. 14, 2019 (<https://oag.ca.gov/sites/all/files/agweb/pdfs/privacy/ccpa-std399.pdf>)

<sup>2</sup> David Roland-Holst, *Standard Regulatory Impact Assessment: California Consumer Privacy Act of 2018 Regulations*, Office of the Attorney General, State of California, August 2019.

Nine states that have enacted legislation completely exclude nonprofit organizations.<sup>3</sup> The six other states with data privacy laws exclude smaller organizations and those that do not have significant revenue from the sale of data.<sup>4</sup>

We therefore respectfully request that any final data privacy legislation exclude nonprofit organizations, which would be in line with the majority of other states. For example, the California Privacy Protection Act is scoped only to “a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity that is organized or operated for the profit or financial benefit of its shareholders...”<sup>5</sup>

Very truly yours,

**TO HAVE YOUR ORGANIZATION SIGN-ON  
TO THIS LETTER, PLEASE COMPLETE THIS  
FORM:**

<https://www.nyapbs.org/take-action>

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<sup>3</sup> California, Connecticut, Utah, Virginia (mostly), Delaware, Florida, Kentucky, Nebraska, and New Hampshire. <https://tnpa.org/get-involved/privacy/>

<sup>4</sup> Colorado, Indiana, Iowa, New Jersey, and Oregon exclude organizations with less than 100,000 names in their member database. Montana excludes those with less and 50,000. *Id.*

<sup>5</sup> California Data Privacy Act §1798.140