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USA: 2020 Privacy Legislation - Part 1: New York and California

In this two-part Insight series, James Snell, Marina Gatto, Zachary Watterson, Nathan Duletzke of Perkins Coie LLP, provide an overview of the evolution of consumer privacy legislation in the US in 2020, including a recap of the bills that failed, and an overview of the privacy-related bills that remain pending. In this first part, they outline and analyse state consumer protection and contact tracing bills in New York and California, whilst Part 2 focuses on the same categories of legislation in other US states.

With the passage of the California Consumer Privacy Act of 2018 (CCPA), many speculated that the advent of broad privacy legislation would be imminent. At the start of this year over a dozen states had introduced omnibus consumer privacy bills and more than half of all states had introduced at least one sector-specific privacy bill. More recently, however, many of those bills failed to pass and the number of pending privacy bills across the US has drastically declined. The unexpected global pandemic has certainly contributed to the decline in pending privacy legislation. In response to COVID-19, legislatures adjourned sessions, tabled bills, and shifted priorities away from privacy legislation. Global pandemic aside, it appears that privacy legislation is nevertheless relatively hard to pass. Despite changes to many legislative agendas, however, consumer privacy legislation remains pending in a handful of states, and at least one state—California—will have a comprehensive consumer privacy initiative on the November 2020 ballot.

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