

## Comparison of Indiana, Iowa, & Connecticut Privacy Frameworks

Connecticut’s comprehensive privacy law, which goes into effect this year, is considered to be one of the most protective state privacy statutes. Iowa SF 262 (the ‘IPA’) shares a similar approach and is comparable in scope with Connecticut, but it is significantly less protective by every other measure. **Indiana’s recently-passed bill (SB 5) falls somewhere in between these established frameworks.**

	Iowa SF 262 (the ‘IPA’)	Indiana (SB 5)	Connecticut (the ‘CTDPA’)	Indiana Comparison
<b>SCOPE</b>				
<b>Covered Entities</b>	<ul style="list-style-type: none"> <li>• Controllers and processors that “conduct business in” Iowa or that “produce products or services that are targeted to residents” of Iowa (Sec. 2(1))</li> <li>• Must exceed small business exceptions by satisfying 1 of 2 thresholds:               <ul style="list-style-type: none"> <li>○ Control or process the personal data of at least 100,000 Iowa residents (Sec. 2(1)(a))</li> <li>○ Derive over 50% of the entity’s gross revenue from the sale of personal data and control or process personal data of at least 25,000 Iowa residents (Sec. 2(1)(b))</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Controllers and processors that “conduct[] business” in Indiana or that “produce[] products or services that are targeted to residents” of Indiana (Ch. 1, Sec. 1(a))</li> <li>• Must exceed small business exceptions by satisfying 1 of 2 thresholds:               <ul style="list-style-type: none"> <li>○ Control or process the personal data of at least 100,000 Indiana residents (Ch. 1, Sec. 1(a)(1))</li> <li>○ Derive over 50% of gross revenue from the sale of personal data and control or process personal data of at least 25,000 Indiana residents (Ch. 1, Sec. 1(a)(2))</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Controllers and processors that “conduct business in” Connecticut or that “produce products or services that are targeted to residents” of Connecticut (Sec. 2)</li> <li>• Must exceed small business exceptions by satisfying 1 of 2 thresholds:               <ul style="list-style-type: none"> <li>○ Control or process the personal data of at least 100,000 Connecticut residents (excluding for payment transactions)</li> <li>○ Derive over 25% of gross revenue from the sale of personal data and control or process personal data of at least 25,000 Connecticut residents (Sec. 2)</li> </ul> </li> </ul>	<p><b>Roughly Equivalent to Both.</b></p> <p>Indiana SB 5’s scope of covered entities is roughly equivalent to that of the CTDPA and the IPA.</p>

<p><b>Covered Data</b></p>	<ul style="list-style-type: none"> <li>• “Personal data” means any information that is linked or reasonably linkable to an identified or identifiable natural person (Sec. 1(18)) <ul style="list-style-type: none"> <li>○ Excludes de-identified data, aggregate data, and publicly available information (Sec. 1(18))</li> </ul> </li> <li>• “Sensitive data” includes: (a) data revealing racial or ethnic origin, religious belief, mental or physical health diagnosis, sexual orientation, or citizenship or immigration status, (b) genetic or biometric data processed to uniquely identify a person, (c) personal data collected from a known child, (d) precise geolocation data (Sec. 1(26))</li> </ul>	<ul style="list-style-type: none"> <li>• "Personal data" means information that is linked or reasonably linkable to an identified or identifiable individual (Ch. 2, Sec. 19(a)) <ul style="list-style-type: none"> <li>○ Excludes de-identified data, aggregate data, and publicly available information (Ch. 2, Sec. 19(b))</li> </ul> </li> <li>• "Sensitive data" includes: (a) data revealing racial or ethnic origin, religious belief, mental or physical health diagnosis, sexual orientation, or citizenship or immigration status, (b) genetic or biometric data processed to uniquely identify a specific individual, (c) personal data collected from a known child, (d) precise geolocation data (Ch. 2, Sec. 28)</li> </ul>	<ul style="list-style-type: none"> <li>• “Personal data” means any information that is linked or reasonably linkable to an identified or identifiable individual <ul style="list-style-type: none"> <li>○ Excludes de-identified data and publicly available information (Sec. 1(18))</li> </ul> </li> <li>• “Sensitive data” includes: (a) data revealing racial or ethnic origin, religious beliefs, mental or physical health condition or diagnosis, sex life, sexual orientation, or citizenship or immigration status, (b) genetic or biometric data processed to uniquely identify an individual, (c) personal data collected from a known child, (d) precise geolocation data (Sec. 1(27))</li> </ul>	<p><b>Roughly Equivalent to Iowa, Slightly Narrower than Connecticut.</b></p> <p>Indiana SB 5 is roughly equivalent to the CTDPA and the IPA in terms of data covered. However, SB 5 more closely aligns with Iowa by: (1) not recognizing data revealing of mental or physical health “conditions” absent a diagnosis as sensitive information; (2) defining "biometric data" to broadly exclude any data generated from photographs; and (3) explicitly excluding aggregate data from the scope of personal data.</p>
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**CONSUMER RIGHTS**

<p><b>Affirmative Consent</b></p>	<ul style="list-style-type: none"> <li>• The IPA does not require that businesses obtain <b>affirmative consent</b> from consumers for any processing activities <ul style="list-style-type: none"> <li>○ Processing sensitive data requires “clear notice and an <b>opportunity to opt out</b> of such processing” (Sec. 4(1))</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Controllers are required to obtain consumers’ <b>affirmative consent</b> in two circumstances: <ul style="list-style-type: none"> <li>○ Secondary uses (Ch. 4, Sec. 1(2)).</li> <li>○ Processing sensitive data (Ch. 4, Sec. 1(5))</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Controllers are required to obtain consumers’ <b>affirmative consent</b> in three circumstances: <ul style="list-style-type: none"> <li>○ Secondary uses (Sec. 6(a)(2))</li> <li>○ Processing sensitive data (Sec. 6(a)(4))</li> <li>○ Processing adolescent (13-15 y.o.) data for targeted advertising and sales (Sec. 6(a)(7))</li> </ul> </li> <li>• Controllers must provide a mechanism for the revocation of consumer consent (Sec. 6(a)(6))</li> </ul>	<p><b>Stronger than Iowa, Narrower than Connecticut</b></p> <p>Like the CTDPA, Indiana SB 5 requires controllers to obtain affirmative consent from consumers to use their sensitive data and for processing personal data for undisclosed secondary purposes. However, similar to the IPA, SB 5 does not establish heightened protections for adolescent data, nor does it include provisions stating that consent cannot be obtained through the use of "dark patterns"--both of which are provided in the CTDPA.</p>
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<p><b>Data Subject Rights</b></p>	<ul style="list-style-type: none"> <li>The IPA establishes the following consumer rights (Sec. 3(1)): <ul style="list-style-type: none"> <li>Confirm whether personal data is being processed and to <b>access</b> such data.</li> <li><b>Delete</b> personal data provided by the consumer</li> <li>Obtain a copy of the personal data in a <b>portable</b> format</li> </ul> </li> <li>A controller shall respond to a consumer request within 90 days, may be extended by 45 days where reasonably necessary (Sec. 3(2))</li> </ul>	<ul style="list-style-type: none"> <li>Indiana SB 5 would establish the following consumer rights (Ch. 3, Sec. 1(b)): <ul style="list-style-type: none"> <li>Confirm whether personal data is being processed and to <b>access</b> such data</li> <li><b>Correct</b> inaccuracies in personal data that the consumer provided to the controller</li> <li><b>Delete</b> personal data provided by or obtained about the consumer</li> <li>Obtain (at the controller's choice) <i>either</i> a copy of the personal data <i>or</i> a representative summary of the personal data in a <b>portable</b> format</li> </ul> </li> <li>A controller shall respond to a consumer request within 45 days, may be extended once by an additional 45 days when reasonably necessary (Ch. 3, Sec. 1(c)(1)).</li> </ul>	<ul style="list-style-type: none"> <li>The CTDPA establishes the following consumer rights (Sec. 4(a)): <ul style="list-style-type: none"> <li>Confirm whether personal data is being processed and to <b>access</b> such data.</li> <li><b>Correct</b> inaccuracies in personal data</li> <li><b>Delete</b> personal data provided by, or obtained about, the consumer</li> <li>Obtain a copy of the personal data in a <b>portable</b> format</li> </ul> </li> <li>A controller shall respond to a consumer request within 45 days, may be extended by 45 days where reasonably necessary (Sec. 4(c)(1))</li> <li>A consumer may appoint an authorized agent to exercise these rights. (Sec. 4(b))</li> </ul>	<p><b>Stronger than Iowa, Weaker than Connecticut</b></p> <p>Indiana SB 5's consumer rights are stronger than those established by the IPA since the Indiana bill includes a right to correct and a broad right to deletion. However, Indiana SB 5's right to correction is more limited than the CTDPA's since it only applies to personal data provided by the consumer and cannot be exercised through an authorized agent.</p> <p>Indiana SB 5 is unique among currently enacted state comprehensive privacy laws in allowing covered entities the discretion to provide consumers either a copy of their personal data OR a "representative summary" of that data.</p>
<p><b>Consumer Opt Outs</b></p>	<ul style="list-style-type: none"> <li>Consumers have the right to opt out of the "<b>sale</b>" (defined narrowly) "of personal data" (Sec. 3(1)(d)). The bill alludes to a right to opt out of targeted advertising, but does not explicitly establish such a right (Sec. 4(6)) <ul style="list-style-type: none"> <li>Controllers may deny an opt out request if they are unable to authenticate it using commercially reasonable means (Sec. 3(2)(d))</li> <li>Consumer opt out rights do not apply to "pseudonymous data" (Sec. (6)(3))</li> <li>Consumers may not exercise opt out rights via authorized</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Consumers have the right to opt out of "<b>targeted advertising</b>," the <b>sale</b> (defined narrowly) of personal data, and "<b>profiling</b>" in furtherance of decisions that produce significant effects (Ch. 3, Sec. 1(b)(5)) <ul style="list-style-type: none"> <li>Controllers may deny an opt-out request if they are unable to authenticate it using commercially reasonable means (Ch. 3, Sec. 1(c)(4))</li> <li>Consumer opt out rights apply to "pseudonymous data" (Ch. 7, Sec. 2)</li> <li>Consumers may not exercise opt-out rights via authorized agents or global device settings</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Consumers have the right to opt out of "<b>targeted advertising</b>," "<b>sale</b>" (defined broadly) "of personal data" and "<b>profiling</b>" in furtherance of solely automated decisions that produce significant effects (Sec. 4(a)(5)). <ul style="list-style-type: none"> <li>Controllers are not required to authenticate opt-out requests and can only deny a request if it has a good faith, reasonable, and documented belief that such request is fraudulent (Sec. 4(c)(4))</li> <li>Consumer opt out rights apply to "pseudonymous data" (Sec. 9(d))</li> </ul> </li> </ul>	<p><b>Stronger than Iowa, Slightly Weaker than Connecticut</b></p> <p>Indiana SB 5's opt-out rights, which allow consumers to opt-out of automated decision-making systems and targeted advertising--both of which are not rights provided by the IPA--are more closely aligned with the CTDPA's</p> <p>However, since the SB 5's definition of "sale" is limited to monetary consideration (like Iowa's definition), SB 5's right to opt-out of the sale of personal</p>

	agents or global device settings		<ul style="list-style-type: none"> <li>○ Consumers may exercise opt-out rights via authorized agents including global device settings (Sec. 5)</li> </ul>	<p>data is narrower than the CTDPA's. Similarly, since SB 5's definition of "targeted advertising" does not include "personal data inferred from that consumer's activities over time," SB 5's right to opt-out of targeted advertising may be narrower than the CTDPA.</p> <p>Furthermore, unlike the CTDPA, Indiana SB 5 does not expressly permit authorized agents or global device settings to exercise consumer rights on behalf of consumers.</p>
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**BUSINESS RESPONSIBILITIES**

<b>General Business Duties</b>	<p>The IPA established the following general business obligations:</p> <ul style="list-style-type: none"> <li>● Reasonable data security (Sec. 4(1))</li> <li>● To not process data in violation of existing federal and state civil rights law (Sec. 4(3))</li> <li>● Non-retaliation (Sec. 4(3))</li> <li>● Disclose data practices (transparency) (Sec. 4(5))</li> <li>● Establish a consumer appeals process (Sec. 3(3))</li> </ul>	<p>Indiana SB 5 would establish the following general business obligations:</p> <ul style="list-style-type: none"> <li>● Collection and processing limitations and data minimization (Ch. 4, Sec. 1(1)-(2))</li> <li>● Reasonable data security (Ch. 4, Sec. 1(3))</li> <li>● To not process data in violation of existing federal and state civil rights law (Ch. 4, Sec. 1(4))</li> <li>● Non-retaliation (Ch. 4, Sec. 1(4))</li> <li>● Disclose data practices (transparency) (Ch. 4, Sec. 3)</li> <li>● Establish a consumer appeals process (Ch. 3, Sec 1(d))</li> <li>● Conduct data protection assessments (Ch. 6)</li> </ul>	<p>The CTDPA establishes the following general business obligations:</p> <ul style="list-style-type: none"> <li>● Collection and processing limitation and data minimization (Sec. 6(a)(1)-(2))</li> <li>● Reasonable data security (Sec. 6(a)(3))</li> <li>● To not process data in violation of existing federal and state civil rights law (Sec. 6(a)(7))</li> <li>● Non-retaliation (Sec. 6(a)(7))</li> <li>● Disclose data practices (transparency) (Sec. 6(c))</li> <li>● Establish a consumer appeals process (Sec. 4(d))</li> <li>● Conduct data protection assessments (Sec. 8)</li> </ul>	<p><b>Equivalent to Connecticut; Stronger than Iowa.</b></p> <p>Indiana SB 5's business obligations are roughly equivalent to what are required by the CTDPA. Unlike the IPA, SB 5 and the CTDPA require: (1) collection limitation and data minimization; and (2) data protection impact assessments for specific activities, such as processing sensitive data, conducting targeted advertising, or profiling consumers.</p>
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**ENFORCEMENT**

<p><b>Enforcement</b></p>	<ul style="list-style-type: none"> <li>● Exclusively by the Attorney General (Sec. 8(1))</li> <li>● 90 day right-to-cure in all circumstances, <b>does not sunset</b> (Sec. 8(2))</li> <li>● Up to \$7,500 fines per violation (Sec. 8(3))</li> </ul>	<ul style="list-style-type: none"> <li>● Exclusively by the Attorney General (Ch. 10, Sec. 1)</li> <li>● 30 day right to cure in all circumstances, <b>does not sunset</b> (Ch. 10, Sec. 3)</li> <li>● Up to \$7,500 fines per violation (Ch. 10, Sec.2(a))</li> </ul>	<ul style="list-style-type: none"> <li>● Exclusively by the Attorney General (Sec. 11(a))</li> <li>● 60 day right to cure if AG deems possible, <b>sunsets after 18 months</b> (Sec. 11(b))</li> <li>● Up to \$5,000 fines per violation (Sec. 11(e))</li> </ul>	<p><b>Stronger than Iowa; Weaker than Connecticut</b></p> <p>Like the IPA, Indiana SB 5 creates a right to cure that is required in all circumstances and does not sunset. However, SB 5's right to cure is limited to 30 days, which is less than both Iowa (90 days) and Connecticut's (60 days - though the CTDPA's right to cure sunsets after 18 months of the law's passage).</p>
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