FUTURE OF PRIVACY FORUM

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State Neural Data Laws, Summer 2025

Legislation	Description	Covered entities	Obligations regarding sensitive data (or "neurotechnology data")
California SB 1223 **Status**: Effective as of Jan. 1, 2025	Amends the California Consumer Privacy Act (CCPA)'s definition of "sensitive personal information" to include "neural data," defined to cover "information that is **generated by measuring the activity of a consumer's central or peripheral nervous system**, and that is **not inferred from nonneural information**." The CCPA, as amended by the California Privacy Rights Act (CPRA), only applies heightened protections to "sensitive personal information" when it's collected or processed for "**the purpose of inferring characteristics about a consumer.**"	For-profit businesses operating in California that meet any of the following: (i) gross annual revenue of over $25 million; (ii) buy, sell, or share personal data of 100,000 or more California residents or households; OR (iii) derive 50% or more annual revenue from selling California residents' personal information.	Under the CCPA: *A consumer shall have the right, at any time, to direct a business that collects sensitive personal information about the consumer to **limit its use of the consumer's sensitive personal information to that use which is necessary to perform the services or provide the goods reasonably expected** by an average consumer who requests those goods or services, to perform [certain business purposes], and as authorized by regulations adopted [by the Attorney General]. A business that uses or discloses a consumer's sensitive personal information for purposes other than those specified in this subdivision **shall provide notice to consumers**, pursuant to subdivision (a) of Section 1798.135, that this information may be used, or disclosed to a service provider or contractor, for additional, specified purposes and that **consumers have the right to limit the use or disclosure of their sensitive personal information.***
Colorado HB 1058 **Status:** Effective as of Aug. 7, 2024	Amends the Colorado Privacy Act (CPA)'s definition of "sensitive data" to include: *"Biological data": means data generated by the technological processing, measurement, or analysis of an individual's biological, genetic, biochemical, physiological, or neural properties, compositions, or activities or of an individual's body or bodily functions, **which data is used or intended to be used, singly or in combination with other personal data, for identification purposes**. "Biological data" includes neural data.* *"Neural data": means information that is **generated by the measurement of the activity of an individual's central or peripheral nervous systems** and that can be processed by or with the assistance of a device.*	Entities, including nonprofits, conducting business in Colorado or delivering commercial products or services targeted to Colorado residents AND either: (i) process personal data of more than 100,000 individuals in any calendar year; OR (ii) derive revenue or receive discounts on goods or services in exchange for the sale of personal data of 25,000 or more individuals. Any service providers, contractors, and vendors that manage, maintain, or provide services relating to the data on behalf of these companies.	Under the CPA: *A controller shall not process a consumer's sensitive data without first **obtaining the consumer's consent** or, in the case of the processing of personal data concerning a known child, without first obtaining consent from the child's parent or lawful guardian.* Under the CPA Rules: • If an individual withdraws consent for the processing of sensitive data, controllers must delete or otherwise render permanently anonymized or inaccessible this sensitive data within a reasonable period of time (Rule 6.07(C)). • Controllers must obtain consent to process sensitive data inferences, with exemptions for individuals over the age of 13 in certain circumstances (Rule 6.10(B)). • If an individual has not interacted with a controller within the last 24 months, the controller must refresh consent in order to continue processing sensitive data (Rule 7.08(A)).

Connecticut SB 1295 **Status**: Most sections effective Jul. 1, 2026	Amends the Connecticut Data Privacy Act (CTDPA)'s definition of "sensitive data" to include "neural data," defined as "any information that is generated by **measuring the activity of an individual's central nervous system**."	This amendment applies to entities or controllers doing business in the state that, within the past year, have controlled or processed the personal data of at least 35,000 consumers; control sensitive data; or offer consumers' personal data for sale in trade or commerce.	Under the CTDPA, as amended by SB 1295, controllers shall: • **Not process** a consumer's sensitive data **without the consumer's consent unless the processing is reasonably necessary for its intended purpose**. (Sec. 9 Section 42-520(a)(4)(D)). • Process sensitive data relating to a child **in compliance with COPPA** if it knows or willfully disregards that the consumer is a child. (Sec. 9 Section 42-520(a)(4)(D)). • **Not sell** a consumer's sensitive data **without their consent**. (Sec. 9 Section 42-520(H)). • Conduct and document a data protection assessment for each processing activity involving sensitive data. (Sec. 11. Section 42-522(a)(b)(1)).

Montana SB 163 **Status:** Effective Oct. 1, 2025	Amends the Montana Genetic Information Privacy Act (GIPA) to add "neurotechnology data" into the scope of the Act: *"Neurotechnology data": means information that is captured by neurotechologies, is generated by **measuring the activity of an individual's central or peripheral nervous systems**, or is data **associated with neural activity**, which means the activity of neurons or glial cells in the central or peripheral nervous system, and that is **not nonneural information**. The term does not include nonneural information, which means information about the downstream physical effects of neural activity, including by not limited to pupil dilation, motor activity, and breathing rate.* *"Neurotechnology": means devices capable of recording, interpreting, or altering the **response of an individual's central or peripheral nervous system to its internal or external environment** and includes mental augmentation, which means improving human cognition and behavior through direct recording or manipulation of neural activity by neurotechnology.*	Entities, including partnerships, corporations, associations, or public or private organizations that either offer **consumer genetic testing products or services directly to a consumer, or collect, use, or analyze genetic data**. Government agencies are exempt, as are entities covered by HIPAA and certain scientific or clinical research entities.	Under the GIPA, as amended by SB 163, entities shall: • **Provide clear and complete information** regarding the entity's policies for the collection, use, or disclosure of genetic or neurotechnology data. (Sec. 4 30-23-104(1)). • **Obtain initial express consent** from consumers about how their genetic or neurotechnology data will be collected, used, or disclosed. (Sec. 4 30-23-104(2)). • **Obtain separate express consent for any transfer or disclosure** of such data or biological samples to third parties other than the entity's processors, including identifying the third party receiving the data or sample; for any transfer or disclosure for research purposes; or for marketing purposes or sale. (Sec. 4 30-23-104(3)). • Develop, implement, and maintain a **comprehensive security program** to protect a consumer's genetic or neurotechnology data against unauthorized use or disclosure. (Sec. 4 30-23-104(5)). • Provide a process that allows consumers to **access, delete, revoke consent, and request the destruction** of their genetic and neurotechnology data, as well as their biological samples. (Sec. 4 30-23-104(6)). This requirement is waived if the entity obtains express, informed, written consent from the consumer (or their parent, guardian, or power of attorney) for participation in a clinical research trial, including data collection and use. (Sec. 4 30-23-104(7)). • **Not store** genetic data, neurotechnology data, or biometric samples of Montana residents in **countries sanctioned** by the U.S. Office of Foreign Asset Control or identified as foreign adversaries under 15 CFR 7.4(a). Data can only be transferred or stored outside the U.S. with the resident's consent. (Sec. 4 30-23-104(10)).