

Digital Privacy For Government Officials

Government Data Privacy Act, HB 491

Christopher Bramwell,
Chief Privacy Officer
Office of Data Privacy



HB 491 Summary

HB 491 creates a foundation on which future incremental efforts and legislation will be built while immediately putting into law new key privacy protections for the public, new privacy governance structure for governmental entities, enhancements to existing governance structure to improve outcomes, basic enforcement, and remedy mechanisms to enable the public to hold governmental entities accountable for meeting their privacy obligations.

Sections 63A-19-401 to 406. Duties of Government Entities

To implement a new processing activity after May 1, an entity should ensure at a minimum the following are accounted for:

- Verify a **record series** with an approved retention schedule is created that accounts for the personal data being processed.
- Reasonably attempt to collect and process the **minimum** amount of personal data necessary.
- Verify the activity does not constitute **unauthorized surveillance**.
- Verify the activity is not an **unauthorized selling or sharing of data**.
- Verify **Notice of Purpose and Use** is provided.
- Verify **agreements** include required terms and conditions.
- Verify capability to **delete personal data** according to retention schedules.

What is a processing activity?

In the context of privacy and personal data, a processing activity refers to any activity or set of activities performed with personal data, whether automated or manual. These activities can include:

- collection (web forms, paper forms, cookies);
- uses (research, decision making, services, licensing, de-identification);
- disclosure by transmission or dissemination (sharing or selling); and
- erasure, destruction or disposition of personal data.

Section 63A-19-102. State Data Privacy Policy

This policy affirms an individual's fundamental expectation of privacy regarding personal data provided to a governmental entity and is meant to guide long-term privacy efforts moving forward. It is not a list of obligations for state agencies.

Impact on governmental entities: Low

Impact Time horizon: 1-3 years for recommendations to be proposed and introduced in legislation.

Section 63A-19-201. Utah Privacy Governing Board

A board is created consisting of the governor, president of the Senate, speaker of the House of Representatives, attorney general, and state auditor to make recommendations on how to best move Utah toward actualizing the State Data Privacy Policy.

Impact on governmental entities: Low

Impact Time horizon: 1-3 years for recommendations to be proposed and introduced in legislation.

Section 63A-19-301. Office of Data Privacy

The Office is created in the Department of Government Operations and is directed by the Chief Privacy Officer. The Office will be a resource in assisting state agencies to meet their privacy obligations. The office will provide some resources, such as train materials and guidance for high risk process activities, for all governmental entities.

Impact on governmental entities: Low

Impact Time horizon: 0-6 months for lines of effort and strategies to begin being implemented.

Sections 63A-19-401 to 406. Duties of Government Entities

Defines privacy obligations for government entities, unless governed by a more specific law, including:

Maintain Privacy Program: Implement a documented privacy program by May 1, 2025, that includes policies, practices and procedures for the processing of personal data.

Impact on governmental entities Moderate to High

Impact Time horizon: 6 - 12 months.

Sections 63A-19-401 to 406. Duties of Government Entities

Breach Notice: Provide notice to an individual if the individual's personal data is compromised in a data breach.

Impact on governmental entities: Moderate

Impact Time horizon: Immediate.

Sections 63A-19-401 to 406. Duties of Government Entities

Minimization: Obtain and process only the minimum amount of personal data reasonably necessary to achieve a specific purpose.

Impact on governmental entities: Low

Impact Time horizon: Immediate.

Sections 63A-19-401 to 406. Duties of Government Entities

Unauthorized Surveillance: Not establish, maintain or use undisclosed or covert surveillance of individuals unless permitted by law.

Impact on governmental entities: Low

Impact Time horizon: Immediate.

Sections 63A-19-401 to 406. Duties of Government Entities

Selling Personal Data: May not sell personal data unless required by law.

Report Sharing of Personal Data: Annually report the selling of personal data to CPO to be reported to Judiciary Interim Committee.

Impact on governmental entities: Low

Impact Time horizon: Immediate.

Sections 63A-19-401 to 406. Duties of Government Entities

Sharing Personal Data: May only share personal data if permitted by law.

Report Sharing of Personal Data: Annually report the sharing of personal data to CPO or SPO to be reported to Judiciary Interim Committee.

Impact on governmental entities: Low

Impact Time horizon: Immediate.

Sections 63A-19-401 to 406. Duties of Government Entities

Privacy Awareness Training: All governmental employees will access to personal data will be required to complete standard privacy awareness training. The Office of Data Privacy will provide pre-made training resources that are available for use by all entities. Entities may also create their own.

Impact on governmental entities: Low

Impact Time horizon: 6 months.

Sections 63A-19-401 to 406. Duties of Government Entities

Notice of Purpose and Use: Provide notice to an individual of the purposes and uses for which personal data is collected.

Impact on governmental entities: Low

Impact Time horizon: Immediate

Sections 63A-19-401 to 406. Duties of Government Entities

Disposition of Personal Data: Retain and dispose of personal data in accordance with approved record series retention schedules.

Impact on governmental entities: Moderate to High

Impact Time horizon: 1 Year+

Sections 63A-19-401 to 406. Duties of Government Entities

3rd Party Contractors: Agreements with contractors that process personal data must require the contractor to comply with the requirements of this Act to the same extent as the governmental entity.

Impact on governmental entities: Low

Impact Time horizon: Immediate

Sections 63A-19-401 to 406. Duties of Government Entities

Process to Request Amendment and Correction: Allow individuals to request to amend or correct personal data processed by the agency.

Impact on governmental entities: Low

Impact Time horizon: Immediate

Sections 63A-19-401 to 406. Duties of Government Entities

Notice to Cyber Center: Notify the cyber center of a breach impacting more than 500 individuals. Entities must report an annual log of breaches that impact fewer than 500 individuals.

Impact on governmental entities: Low to Moderate

Impact Time horizon: Immediate

Sections 63A-19-401 to 406. Duties of Government Entities

New Processing Activities: New processing activities implemented by agencies after May 1, 2024, must comply with Section 63A-19, Part 4.

Sections 63A-19-401 to 406. Duties of Government Entities

Preexisting Processing Activities: Processing activities implemented prior to May 1, 2024 must be documented with a strategy to bring into compliance by Jan 1, 2027.

Impact on governmental entity: Moderate to High

Impact Time horizon: 3 Years