

## The Uniform Personal Data Protection Act (LB 1188) Is Bad for Consumers, Businesses, and Law Enforcement

Attorneys general, privacy advocates, experts, and businesses have criticized the Uniform Personal Data Protection Act (LB 1188). The bill would do little to reform companies' inappropriate data practices. It explicitly exempts behavioral advertising from the protections in the bill, does not provide data deletion rights, has significant loopholes for data brokers, and doesn't give actionable rights to consumers. It could also forestall future privacy legislation that is more beneficial to consumers and holds companies accountable. Below are several resources further highlighting the problems with the bill.

**Attorneys General of Connecticut and North Dakota**, Co-Chairs, National Association of Attorneys General Internet Safety & Cyber Privacy Committee, [Letter to Harvey Perlman, Chairman, Collection and Use of Personally Identifiable Data Drafting Committee](#) (Mar. 2021)

"[R]epresentatives from our and select other Attorneys General offices met with you in January 2021 to express shared concerns about certain provisions at the core of the Act, including its voluntary consensus standard and enforcement provisions. Given that our concerns remain unaddressed, we cannot support the current draft."

**Daniel Solove, John Marshall Harlan Research Professor of Law, The George Washington University Law School**, "[A Critique of the Uniform Law Commission's Uniform Personal Data Protection Act](#)" (Feb. 2022)

"Quite frankly, the UPDPA is quite terrible. No state should adopt it in whole or in part. It is hard to find anything to salvage in the UPDPA. It's a law as clunky as its acronym. I find it shocking that the ULC could propose such an awful law. It is, sad to say, quite shameful."

**Prof. Solove at Future of Privacy Forum** [12th Annual Privacy Papers for Policymakers 2022](#) (starts at 43:20)

"[U]nfortunately I find the effort to be very disappointing. And let me say I'm being charitable in the way I characterize that. I think the [UPDPA] really misses the mark in almost every way. It is not a law for our times, it really rolls back the clock tremendously. Unfortunately I think that effort from the Uniform Law Commission is just really really weak, and I don't understand how that effort got through. I just find it incredibly disappointing. It's not a compromise solution, it's a law that is so far from where the law is, between the bills in Congress and the various state laws it is way weaker and it really doesn't advance the ball at all unfortunately. So, it's an unfortunate strike out in my view."

**Chris Calabrese, Senior Director, Privacy and Regulatory Affairs, Microsoft, [Letter to Harvey Perlman, Chair, ULC Collection and Use of Personally Identifiable Data Committee](#)** (Oct. 23, 2020)

“[T]he bill has been made far too narrow to provide meaningful protection for consumers....The definition of “personal data” is much too narrow. It would cover only data associated with direct identifiers, and not the broader category of data that is “identifiable.” That makes it far narrower than the range of data covered by most modern comprehensive privacy laws, including the EU’s General Data Protection Regulation (GDPR) and the California Consumer Privacy Act (CCPA). And it means that it would fail to cover modern data sets that have real privacy impacts, such as data associated with cookie identifiers or IP addresses.”

**Hayley Tsukayama, Legislative Activist, Electronic Frontier Foundation, [This Is Not the Privacy Bill You’re Looking For](#)** (Dec. 2021)

“While the UPDPA wrestles with many of the most controversial discussions in privacy legislation today, it falls short of providing a meaningful resolution to any of them. It grossly fails to address the privacy problems ordinary people face—invasive data collection, poor control over how their information is used, no clear means to fight for themselves—that have data privacy on the agenda in the first place. Lawmakers, federal or state, should not duplicate this hollow bill and lower the bar on privacy.”

**Calli Schroeder, Global Privacy Counsel, EPIC, [The Uniform Law Commission’s “Privacy Bill” Fails to Protect Privacy](#)**, (Jan. 2022)

“The UPDPA diverges sharply from individual rights and protections that have been included in global and state laws for the past several years. Despite the fact that residents of California, Colorado, and Virginia (in addition to all residents of the European Union, Brazil, and several additional countries) already have the right to request that covered businesses delete the personal data held about them, the UPDPA simply didn’t include this widely-recognized privacy right. User rights are limited to rights of access and correction and, even then, only in limited circumstances and subject to a host of exceptions. Collection restrictions (such as opt-out rights) and dissemination restrictions (such as California’s “do not sell” option) are conspicuously absent from the UPDPA. This extreme limitation on individual privacy rights not only deprives individuals of the important right to request deletion of their personal data, but also creates increased overhead for businesses who must determine which state an individual resides in before determining which rights apply to them.”

**Maureen Mahoney, Senior Policy Analyst, Consumer Reports, [The Uniform Law Commission Privacy Model Bill is a Disaster](#)** (Aug. 2021)

“Arguably the most striking element of the UPDPA is that it explicitly exempts behavioral advertising from any controls or protections, even though reining in these privacy-invasive practices is generally considered to be a privacy motivator and goal of any privacy law.”

**Consumer Federation of America et al., LB 1188, [Uniform Personal Data Protection Act — OPPOSE](#)** (Feb. 2022)

“The bill offers consumers no right to deletion for any data for any company. Deletion rights have been a core element of European privacy law dating back to the Data Protection Directive, and have been reinforced by the enactment of the Global Data Protection Regulation. The California Consumer Privacy Act, Virginia Consumer Data Protection Act, and the Colorado Privacy Act all include deletion provisions. Consumers are at risk to data exposure or misuse so long as it remains saved.”