



The State of State Technology Policy

2023 report

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About the Center on Technology Policy

UNC's Center on Technology Policy seeks to craft public policy for a better internet. Utilizing an interdisciplinary academic framework, CTP works to identify knowledge gaps and develop actionable policy frameworks that will enable us to realize the potential benefits of technology while minimizing its harms. By working closely with students and expanding the University's offerings in technology policy analysis, we seek to cultivate and train the field's future practitioners.

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Executive Summary

In 2023, states led the development of technology policy in the United States.¹ Unlike at the federal level, where reform in areas like privacy and online child safety stalled, state legislatures introduced hundreds of bills and passed many into law. By our count, states passed 65 tech policy laws in 2023. To understand the changing landscape of tech policy in the United States and how it affects companies and users, we must understand what is happening in state capitals.

In this report – our [second](#) in this series – we provide an overview of developments in state tech policy over the last year. We analyze the changing political architecture at the state level during last year’s state legislative sessions and review key laws passed regarding six topics, as well as relevant activity in state litigation.

Our analysis revealed six key findings:

- 1. Historic trifecta control.** The composition of state governments has helped them to pass new laws in tech policy. In 2023, 39 states had trifecta governments.² This was a historic number of trifectas, the largest number since [at least 1991](#). Trifecta governments correlated to the passage of tech reform: of the tech bills enacted in 2023, 86% were enacted in states with trifectas.
- 2. Most active on child safety.** Protecting children online was the key issue for state legislatures this year. Legislatures passed 23 online child safety laws in 13 states. The laws impose age verification requirements, limit social media use by minors, and grant parents more control over their children’s social media use. Legislators from both parties were active on this issue.
- 3. Spike in AI legislation.** State legislators’ interest in regulating artificial intelligence (AI) exploded. State legislators enacted 20 laws across 15 states. None of these laws regulate AI comprehensively. Instead, new laws either built capacity for legislators to understand and address the problems of AI, or addressed issue-specific concerns.
- 4. A de facto national privacy standard.** Eight additional states passed comprehensive privacy reform this year. Now, 13 states have enacted comprehensive privacy laws. All eight laws passed last year were based on the Washington Privacy Act. As a result, state privacy law is developing not as a patchwork, but instead as a de facto national standard.
- 5. Lots of antitrust litigation, but little antitrust legislation.** States’ interest in antitrust reform dwindled, with states not passing any significant antitrust legislation. However, several states joined civil suits against tech platforms.

¹ The term “technology policy” encompasses a broad range of policy issues, including not only the ones we cover in this report, but also broadband access, the right to repair, and intellectual property. Here, we have elected to focus our analysis of developments in state tech policy on a subset of six tech policy issues.

² A trifecta government is where one party controls both legislative houses and the governor’s office.

6. In the eye of a content moderation storm. After a flurry of activity on content moderation during the last several years, states appeared to be in a holding pattern, waiting for decisions in several Supreme Court cases. Similarly, states have not passed new digital taxes, as they waited for legal clarity on Maryland's new digital tax law.

These insights reveal three distinct roles that states played in the development of technology policy in 2023.

States as Trailblazers: In the absence of federal legislation, states have taken the lead and passed new legislation on digital privacy, online child safety, and AI. Although states did not pass comprehensive AI regulation this year, they did lead the country in legislating in this area, focusing on building their capacity to understand and regulate AI in the future by establishing working groups, research projects, and audits.

States as Barometers: On some issues, state legislative activity has slowed as states wait for guidance from courts on the scope of state lawmaking power. Depending on how courts resolve cases on content moderation, social media bans, and taxes, we may see more state legislative activity in 2024.

States as Passengers: In some cases, states have jumped aboard policy processes led by the federal government. Most notably, while no states passed new antitrust legislation, many joined federal litigation.

Based on this analysis, we also look ahead to the upcoming legislative sessions. How will states shape tech policy in 2024? For each of the six issues covered in this report, we make a new set of predictions about how state tech policy will unfold over the course of the next year.

Just as the composition of state governments defined state tech policy in 2023, so too will it define state tech policy in 2024. In 2024, 40 states will have trifectas, one more than in 2023 and the most since at least 1991. By comparison, in 1992, 19 states had trifecta governments. In 2024, of the remaining 10 states with divided governments, four states will have supermajority control. Accounting for filibusters, this level of single-party control will enable lawmakers in 40 states to take action without any minority support.

This single-party control will enable states to pass a broad swath of new legislation in tech policy in 2024. It is most likely that states will pass new child safety legislation and new comprehensive privacy laws. In privacy, we expect the most activity to be in the 28 trifecta states that have not yet passed comprehensive reform.³ We also expect these states to increase their activity in AI reform, likely by passing laws that build their capacity to understand and regulate AI.

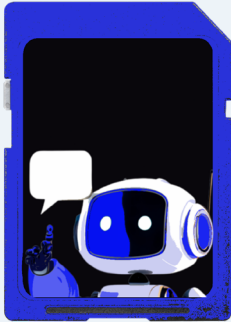
Courts will also shape the tech policy landscape in 2024. State attorneys general will continue to use litigation to regulate the tech sector. In addition, several pending court decisions will determine the scope of state authority to regulate the tech sector in key areas like child safety and content moderation.

Below are our 20 predictions for state activity in tech policy in 2024.

³ Of the 28 without comprehensive privacy legislation, 16 are Republican trifectas: Alabama, Arkansas, Georgia, Idaho, Louisiana, Mississippi, Missouri, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, West Virginia, and Wyoming. There are Democratic trifectas in 12 states: Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, Rhode Island, and Washington.

Looking ahead to 2024

Artificial Intelligence



- States will continue to enact “learning” laws that review, evaluate, and research AI. Most of the AI laws that pass will fall into this category.
- Some issue-specific laws will also pass. For instance, as the 2024 election approaches, more states will pass laws on the use of AI in the electoral process.
- State legislators will debate comprehensive reform proposals. Due to the large number of states with single-party control, at least one state is likely to pass comprehensive reform. The recently formed [multistate AI working group](#) will likely craft a comprehensive state AI bill and support it as a national standard.

Privacy



- States will continue to pass legislation modeled on the Washington Privacy Act.
- States with trifectas are most likely to pass comprehensive privacy legislation. There are 28 states with trifectas that have not yet passed comprehensive privacy protections.
- States will continue to pass health, genetic, and biometric privacy laws.

Content Moderation



- If the Supreme Court upholds the content moderation laws in Texas and Florida, then a large number of states with Republican trifectas will pass similar laws in the spring and summer. If the Supreme Court strikes down the laws, then few states will seek to restrict platforms’ content moderation practices.
- If the Supreme Court upholds the Florida law’s transparency provisions, then both Republican and Democrat trifectas are likely to pass new laws mandating platform transparency.
- States are unlikely to pass laws imposing online abortion speech restrictions.



Antitrust

- Revisions to state antitrust laws remain unlikely in 2024. California may consider antitrust legislation once the [California Law Revision Commission](#) releases its findings and recommendations on revising the state's antitrust laws.
- Antitrust enforcement through multistate litigation will likely remain a significant priority for both Republican and Democratic attorneys general.

Child Safety



- As the 2024 election approaches, states will continue to pass parental rights laws.
- Republican-led states will continue to pass laws requiring age verification for sites with adult content. There are 16 states with Republican trifectas that have not passed these laws.
- While we expect a trickle of Age Appropriate Design Code-style bills to be introduced, passage remains unlikely.
- State attorneys general will continue to use litigation to advance their objectives. If they survive a motion to dismiss in the pending child safety litigation against Meta, then they are likely to initiate at least one product liability suit against another tech platform.
- Ongoing litigation will shape what state legislatures can do. The appeals of NetChoice's challenges to the California and Arkansas laws will affect the scope of state power to legislate in this area. If NetChoice prevails on appeal, the pace of legislative activity in this area will slow.
- The Supreme Court's decision in the Texas and Florida cases will also impact how states can regulate child safety. If Texas and Florida win, several states will pass child safety laws that dictate platform content moderation practices.
- Few states will follow Montana's lead in banning TikTok, due in part to legal hurdles.



Taxation

- States will not focus much attention on digital tax legislation in 2024. We will continue to see only a few states introduce Maryland-style bills. However, they are unlikely to pass.

Background

How state tech policy works

States have long been seen as the “laboratories” of democracy, in part because they can be quicker to test out new laws and regulations.⁴ Dozens of state governments are controlled by one political party, which makes it easier to pass new legislation. States where the government is controlled by one party – also called trifecta governments or trifectas – are far more likely to successfully pass legislation. In the 2023 sessions, 39 states had trifecta governments (see [Table 1](#)). We estimate that in 2023, 86% of the enacted tech policy laws were passed in trifecta states (see [Table 2](#)).

Several additional factors can influence the ability of one party to control the passage of legislation. In some legislatures, one party controls a supermajority, and therefore is able to pass laws over a governor’s veto. Likewise, some legislatures do not allow [filibusters](#), so a minority party cannot use delay tactics to block legislation.

Accounting for trifectas, supermajorities, and filibuster rules, we estimate that last year, one party had the power to enact legislation in 40 states. Of all the tech legislation passed in 2023, 77% was passed by those states. In [Table 2](#), we show the tech legislation passed in 2023, along with which states had trifectas, supermajority control, and filibusters. We then identify which states had single-party control of their government.

Despite state legislators’ growing interest in technology policy, there remain significant limitations to how states can regulate digital platforms. The U.S. Congress is responsible for [regulating interstate commerce](#), and federal law [preempts](#) state law. For example, state content regulation cannot violate the First Amendment, and if it imposes liability in a way that conflicts with [Section 230](#) of the Communications Decency Act, courts are likely to [strike it down](#). Similarly, new state taxes on internet platforms must not run afoul of the [Internet Tax Freedom Act](#).

State policymaking receives far less attention and is often less understood than federal action, in part due to the differences in the policy process at the state and federal levels. While the U.S. Congress is in session year-round, most state legislatures meet for only part of the year. Some states, like New York or Pennsylvania, meet throughout the year. For others, like Arkansas or Virginia, the regular legislative session lasts only a few weeks. Four states – Texas, Nevada, Montana, and North Dakota – meet only in odd-numbered years.

As might be expected, there is also a wide variation in the number of bills different state legislatures consider each year. For example, the Wyoming legislature is [estimated](#) to consider 350 bills in the upcoming legislative session; the New Jersey state assembly is [estimated](#) to consider 8,000. States legislatures, like their federal counterpart, pass both laws and resolutions. Resolutions do not have the force of law, but are used to express a position or set of priorities for future action.

In most states, legislators are neither expected to work full-time on their legislative duties nor have the capacity to hire large staffs.

[Legislators in 10 states](#) are employed full-time and on average are compensated about \$82,000. However, for the other 40 states legislators generally spend between half and two-thirds of their time on their legislative duties, and earn between \$18,000 and \$41,000. Many legislators have other regular employment.

As a result, many state legislators rely on outside help to understand and address complex policy issues. There are many state and national organizations that offer policy expertise on tech policy issues. National networks like the [American Legislative Exchange Council](#), the [State Policy Network](#), and the [State Innovation Exchange](#) provide state-specific policy guidance, as do state-based think tanks like the [Locke Foundation](#). To develop proposals, state legislators often rely on [model legislation](#) written by [think tanks](#), [companies](#), [trade organizations](#), [non-profits](#), and [others](#). [One analysis](#) found that between 2016 and 2018, state legislators introduced 10,000 bills directly based on model legislation.

⁴ This section draws heavily from the overview of state tech policy included in last year’s [report](#).

What the 2023 elections will mean for 2024 state legislative sessions

In 2024, 40 states will have trifecta governments. Louisiana [became a trifecta government](#) following the November 2023 elections, when Republican Jeff Landry was elected governor. No existing trifectas became divided. In 2024, Republicans will control 23 trifectas, and Democrats 17.

This is the [largest number](#) of trifectas since at least 1991. Additionally, considering supermajorities and filibusters, 40 states will have single-party control in the 2024 term.

Table 1: Democratic and Republican [control of state governments](#) over the last 10 years.

| Legislative session | Total trifectas | Democratic trifectas | Republican trifectas |
|---------------------|-----------------|----------------------|----------------------|
| 2024 | 40 | 17 | 23 |
| 2023 | 39 | 17 | 22 |
| 2022 | 37 | 15 | 23 |
| 2021 | 37 | 14 | 23 |
| 2020 | 36 | 15 | 21 |
| 2019 | 36 | 14 | 22 |
| 2018 | 34 | 8 | 26 |
| 2017 | 31 | 6 | 25 |
| 2016 | 30 | 7 | 23 |
| 2015 | 31 | 7 | 24 |
| 2014 | 37 | 13 | 24 |

Table 2: Major state platform legislation passed in 2023.

Table 2 lists every major state tech policy law and resolution passed in 2023. It also lists structural characteristics of each state that passed those laws. A state had “Single-Party Control” if it had a trifecta and no filibuster; a trifecta, a supermajority, and a filibuster; or a divided government with a supermajority in both houses.

| State | Bill | Subject | Trifecta Control | Super-majority | Filibuster | Single-Party Control |
|-------------|------------------------|---|------------------|----------------|------------|----------------------|
| Arizona | SB1565 | AI | Divided | No | No | No |
| Arizona | SB2482 | AI | Divided | No | No | No |
| Arizona | SB1221 | Privacy | Divided | No | No | No |
| Arkansas | SB66 | Child Safety | GOP | Yes | Yes | Yes |
| Arkansas | SB396 | Child Safety | GOP | Yes | Yes | Yes |
| California | AB302 | AI | DEM | Yes | No | Yes |
| California | SB60 | Child Safety/ Content Moderation | DEM | Yes | No | Yes |
| California | AB1394 | Child Safety | DEM | Yes | No | Yes |
| California | AB254 | Privacy | DEM | Yes | No | Yes |
| California | AB352 | Privacy | DEM | Yes | No | Yes |
| Connecticut | SB1103 | AI | DEM | No | Yes | No |
| Connecticut | SB3 | Child Safety/ Privacy | DEM | No | Yes | No |
| Delaware | HB154 | Privacy | DEM | Yes | No | Yes |
| Florida | SB262 | Child Safety/ Privacy/ Content Moderation | GOP | Yes | No | Yes |
| Florida | SB662 | Child Safety | GOP | Yes | No | Yes |
| Florida | H379 | Child Safety | GOP | Yes | No | Yes |
| Georgia | HB203 | AI | GOP | No | No | Yes |
| Hawaii | SB1 | Privacy | DEM | Yes | Yes | Yes |
| Illinois | HB3563 | AI | DEM | Yes | No | Yes |

| State | Bill | Subject | Trifecta Control | Super-majority | Filibuster | Single-Party Control |
|----------------|------------------------|--------------------|------------------|----------------|------------|----------------------|
| Illinois | HB2123 | AI | DEM | Yes | No | Yes |
| Indiana | SB5 | Privacy | GOP | Yes | No | Yes |
| Iowa | SF262 | Privacy | GOP | No | No | Yes |
| Louisiana | HB77 | Child Safety | Divided | Yes | No | Yes |
| Louisiana | HB61 | Child Safety | Divided | Yes | No | Yes |
| Maryland | HB622 | AI | DEM | Yes | No | Yes |
| Maryland | HB812 | Privacy | DEM | Yes | No | Yes |
| Michigan | HB5144 | AI | DEM | No | No | Yes |
| Minnesota | SB2909 | AI | DEM | No | No | Yes |
| Minnesota | SF1370 | AI | DEM | No | No | Yes |
| Mississippi | HB1315 | Child Safety | GOP | No | No | Yes |
| Mississippi | SB2346 | Child Safety | GOP | No | No | Yes |
| Mississippi | SB3000 | AI | GOP | No | No | Yes |
| Montana | SB154 | Privacy | GOP | Yes | No | Yes |
| Montana | SB544 | Child Safety | GOP | Yes | No | Yes |
| Montana | SB419 | Privacy | GOP | Yes | No | Yes |
| Montana | SB351 | Privacy | GOP | Yes | No | Yes |
| Montana | SB384 | Privacy | GOP | Yes | No | Yes |
| Nevada | SB370 | Privacy | Divided | No | No | No |
| New Jersey | S715 | Child Safety | DEM | No | No | Yes |
| New York | S1042 | AI | DEM | Yes | No | Yes |
| North Carolina | HB8 | Child Safety | Divided | Yes | No | Yes |
| North Carolina | SB20 | Content Moderation | Divided | Yes | No | Yes |

| State | Bill | Subject | Trifecta Control | Super-majority | Filibuster | Single-Party Control |
|---------------|------------------------|-------------------------------------|------------------|----------------|------------|----------------------|
| North Dakota | HB1361 | AI | GOP | Yes | No | Yes |
| North Dakota | H1003 | AI | GOP | Yes | No | Yes |
| Ohio | HB33 | Child Safety | GOP | Yes | No | Yes |
| Oregon | SB619 | Privacy | DEM | No | No | Yes |
| Oregon | HB2052 | Privacy | DEM | No | No | Yes |
| Rhode Island | HB6423 | AI | DEM | Yes | No | Yes |
| Tennessee | H1310 | Privacy | GOP | Yes | No | Yes |
| Tennessee | HB1181 | Privacy | GOP | Yes | No | Yes |
| Texas | HB2060 | AI | GOP | No | Yes | No |
| Texas | HB4 | Privacy | GOP | No | Yes | No |
| Texas | HB18 | Child Safety | GOP | No | Yes | No |
| Texas | HB1181 | Child Safety | GOP | No | Yes | No |
| Texas | H2545 | Privacy | GOP | No | Yes | No |
| Texas | SB2105 | Privacy | GOP | No | Yes | No |
| Texas | SB2085 | AI | GOP | No | Yes | No |
| Texas | SB1602 | Child Safety/ Content Moderation | GOP | No | Yes | No |
| Utah | HB311 | Child Safety | GOP | Yes | Yes | Yes |
| Utah | SB152 | Child Safety | GOP | Yes | Yes | Yes |
| Utah | SB287 | Child Safety | GOP | Yes | Yes | Yes |
| Virginia | SB1515 | Child Safety | Divided | No | No | No |
| Washington | HB1155 | Privacy | DEM | No | No | No |
| Washington | HB5152 | AI | DEM | No | No | No |
| West Virginia | HB3214 | AI | DEM | Yes | No | No |

Artificial Intelligence

- **15 states passed a total of 20 laws on AI.**
- **State AI laws were largely narrow in scope, focusing on issue-specific regulations and capacity building.**
- **Issue-specific AI laws included regulation of AI in government, elections, and privacy. Governors in six states issued executive orders on AI.**

Perhaps no topic in tech policy has attracted as much attention as AI this past year. OpenAI's release of ChatGPT in November 2022 sparked an explosion of public interest in generative AI, and also gave momentum to a conversation about how AI should be regulated. This year, [federal](#) and [state](#) governments devoted more attention to AI regulation than in past years, including President Biden issuing an [executive order](#) on AI.

State legislators introduced dozens of bills — [BSA counts](#) more than 190, a number that includes every bill that mentions AI — and 20 passed. None of the laws passed this year comprehensively regulate AI. Rather, these laws offer very targeted restrictions related to a specific issue or build capacity for the government to better understand AI. Governors in at least six states issued executive orders regarding AI: five of the six concern the use of AI within state government.

In this section, we review these policy developments in AI: issue-specific regulation, government activity focused on building capacity, and bills introduced to comprehensively regulate AI.

Issue-Specific Regulation

A handful of states imposed targeted regulation of AI on specific issues. We review new laws and regulations in four issue areas: government, elections, privacy, and pornography. In addition, legislators in [Georgia](#) passed a law that limits the use of AI for eye examinations and assessments. Other legislators introduced bills related to [gambling](#), [employment](#), and [insurance](#), but these proposals did not pass.

Government. Several states passed laws addressing the use of AI models by state governments. [Connecticut](#) implemented a law requiring an assessment of state AI use. [Rhode Island](#) and [Louisiana](#) passed resolutions directing the state government to audit AI use. [California](#) legislators passed a law funding research on the use of “advanced technology” to improve state and local government.

States also addressed how AI is used in more specific areas of state governance. Legislators in [West Virginia](#) passed a law requiring that the state government “incorporate machine learning (ML), artificial intelligence (AI), or other advanced technologies to assess state roads.” Arizona, Minnesota, and Texas passed laws concerning AI in policing: the [Arizona](#) and [Texas](#) laws govern the use of AI in victim notification systems, and the [Minnesota](#) law requires the government to conduct an audit of the “surveillance and data analysis technologies” including AI, used by state police.

Similarly, the governors of five states — [California](#), [New Jersey](#), [Oklahoma](#), [Pennsylvania](#), and [Virginia](#) — issued executive orders that support the capacity to address AI in state government.

Elections. [Minnesota](#), [Michigan](#), and [Washington](#) passed legislation limiting the use of generative AI — and deepfakes — in political advertising. The [Minnesota](#) law bans the use of deceptive generative AI in political communication meant to influence an election, and the laws in [Washington](#) and [Michigan](#) require disclaimers on ads that contain generated content. But it also allows for injunctive relief “against any person who is reasonably believed to be about to violate or who is in the course of violating this section.” These new laws follow the lead of the [three](#) other states that had passed legislation banning deepfakes in political advertising in previous sessions.

Privacy. Eight comprehensive privacy reform laws passed in 2023, which we address in more detail below. Of these, six limit the use of AI in profiling. The laws in four states – [Florida](#), [Indiana](#), [Oregon](#), and [Texas](#) – adopt the language from the Virginia Consumer Data Protection Act, allowing consumers the ability to opt-out of “profiling in furtherance of a decision that produces a legal or similarly significant effect concerning the consumer.” Two states – [Montana](#) and [Delaware](#) – use a narrower standard, stating that consumers have the right to opt-out of “profiling in furtherance of solely automated decisions that produce legal or similarly significant effects concerning the consumer.”

Pornography. Extending a series of [laws passed](#) over the last several years, several states restricted the production and dissemination of AI-generated pornographic images of a person without their consent. While a new law in [New York](#) updates an existing law criminalizing the distribution of nonconsensual sexual images to include AI-generated content, a new [Illinois](#) law imposes civil liability for the distribution of such content.

Capacity Building

State governments took a series of steps to establish new institutions to study AI, including developing recommendations for regulation. [Illinois](#) legislators established the “Generative AI and Natural Language Processing Task Force” to recommend legislation and policies, assess topical issues in generative AI including labor and cybersecurity, and protect “civil rights and civil liberties.” Taking a more targeted approach, the [Texas](#) legislature established a new AI advisory

council, with a mandate to “study and monitor artificial intelligence systems developed, employed, or procured by state agencies.” The governor of Wisconsin issued an [executive order](#) establishing a task force to study AI’s impact on the workforce. [Rhode Island](#) passed a resolution that tasks existing state offices with studying AI in and its potential for government.

Comprehensive Bills

In privacy regulation, “comprehensive” bills are those that impose broad new consumer protections and company requirements. In AI, “comprehensive” legislation would do the same. No states passed comprehensive AI regulation in 2023, but legislators in several states introduced comprehensive proposals.

Massachusetts State Senator Berry Finegold [introduced](#) “An Act Drafted With The Help Of ChatGPT To Regulate Generative Artificial Intelligence Models Like ChatGPT.” The bill, which was [written in part by ChatGPT](#), offered seven regulatory requirements: watermarks, “reasonable” security measures, informed consent, “risk assessments,” “registration of major models with the attorney general,” de-identifying data, and prohibiting all discrimination based on protected characteristics. A bill introduced in [California](#) asserted the legislature’s intent to enact broad comprehensive legislation, including new regulation on transparency, risk assessments, “Know Your Customer” requirements, and a duty to “prevent both malicious uses and unintended consequences that threaten public safety.” [Bills introduced in other states](#) echoed some of the ideas introduced in these Massachusetts and California proposals.

Looking ahead to 2024

- **States will continue to enact “learning” laws that review, evaluate, and research AI. Most of the AI laws that pass will fall into this category.**
- **Some issue-specific laws will also pass. For instance, as the 2024 election approaches, more states will pass laws on the use of AI in the electoral process.**
- **State legislators will debate comprehensive reform proposals. Due to the large number of states with single-party control, at least one state is likely to pass comprehensive reform. The recently formed [multistate AI working group](#) will likely craft a comprehensive state AI bill and support it as a national standard.**

Privacy

- **Eight states passed comprehensive privacy legislation this year. All of these laws used the Washington Privacy Act as their model.**
- **Four states passed new comprehensive health data privacy laws that cover reproductive, genetic, and biometric data. Several more passed narrow laws covering health, genetic, or biometric privacy issues. Two passed new restrictions on data brokers.**
- **Montana banned TikTok for all residents, but a federal judge blocked the ban from taking effect. Governors of 12 states banned TikTok from state employees' devices, joining 22 states that did so in previous years.**

Below we examine three types of privacy legislation passed by states: comprehensive laws, issue-specific laws, and TikTok restrictions. In all, states passed 23 new privacy laws. We then analyze privacy-related litigation.

Comprehensive Privacy Legislation

With comprehensive federal data privacy legislation still stalled in Congress, U.S. states continued to pass their own comprehensive privacy laws. Legislators in more than [25 states](#) introduced comprehensive legislation in 2023. Of these, eight states passed comprehensive data privacy legislation: [Delaware](#), [Florida](#), [Indiana](#), [Iowa](#), [Montana](#), [Oregon](#), [Tennessee](#), and [Texas](#). These eight states joined [California](#), [Colorado](#), [Connecticut](#), [Utah](#), and [Virginia](#), which previously passed comprehensive legislation. This year also saw several of the comprehensive laws passed in previous years go into [effect](#).

Of the 13 states that have passed comprehensive privacy legislation, 12 have been modeled on the Washington Privacy Act ([WPA](#)). Only the California Consumer Protection Act ([CCPA](#)), originally passed in 2018, adopts a different model.

Most of the comprehensive privacy laws regulate the collection, use, and disclosure of personal data by businesses. Specifically, these laws grant consumers the right to access, correct, delete, download, or transfer the data companies collect and store about them. Most give consumers a right to restrict or opt-out of having their data sold to third parties.

Finally, several of these laws impose additional requirements on businesses: they must provide notice

to consumers regarding data collection and use, and they are prohibited from discriminating against consumers who exercise their new privacy-related rights.

Below we examine some of the main components of comprehensive privacy legislation.

Enforcement

One of the most contentious issues is private rights of action. A private right of action grants consumers the ability to sue companies for violations of the law. For example, California's comprehensive privacy reform, the [CCPA](#), grants Californians a private right of action for some privacy violations.

In contrast, none of the eight comprehensive laws passed in 2023 include a private right of action. Instead, these laws reserve enforcement to the state's attorney general. Notably, [early drafts](#) of the [Oregon Consumer Privacy Act](#), which passed this year, included a private right of action. [New York](#), [Massachusetts](#), and [Mississippi](#) proposed comprehensive privacy legislation in 2023 that included a private right of action, but none of these bills passed.

Opt-out/Opt-in

All eight laws enacted in 2023 grant consumers the right to opt-out of having their personal data sold to third parties or used for targeted advertising. Each of the eight laws passed this year requires that data controllers obtain opt-in consent when processing sensitive personal information. The [Florida Digital Bill of Rights](#) allows consumers to opt out of data collection by voice and facial recognition.

Four of the comprehensive privacy laws passed this year – in [Montana](#), [Texas](#), [Delaware](#), and [Oregon](#) – also contain a universal opt-out provision. These laws permit users to delegate an “authorized agent,” such as a browser, to express their design to opt-out of certain forms of data processing.

Automated Decision-Making

Automated decision-making is the process by which data is used to make decisions independent of human involvement. Seven out of the eight comprehensive laws enacted in 2023 grant consumers the right to opt out of automated decision-making that produces legal or similar significant effects concerning the consumer. The [Tennessee Information Protection Act](#) is the only law enacted in 2023 that does not give consumers the right to opt-out of automated decision-making.

Safe Harbor

All of the comprehensive privacy laws enacted in 2023 include “safe harbor” provisions. These provisions allow companies to avoid penalties if they correct violations of the law within a certain “cure period.” While “cure periods” are typically between 30 and 60 days, the [Iowa Consumer Data Protection Act](#) introduced a 90-day “cure period,” the longest of any U.S. privacy law. The [Delaware Personal Data Privacy Act](#) and the [Oregon Consumer Privacy Act](#) include safe harbors that sunset after January 1, 2026. The Florida Digital Bill of Rights has a discretionary 45-day “cure period” that is left to the jurisdiction of the Florida Department of Legal Affairs.

Personal Data

The WPA-based laws define “personal data” as data that is “linked or reasonably linkable to an identifiable individual.” In contrast, the [CCPA](#) offers a more expansive definition: data is “personal” if it “identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household.” Both models include exceptions for deidentified and publicly available data.

Sensitive Data

Each comprehensive privacy law imposes stricter rules for data that is “sensitive.” Most laws define data as sensitive if it reveals information about a consumer’s race, ethnicity, religion, sexuality, or citizenship status, or if the data is health, genetic, or biometric data. Again, [California law](#) includes a more expansive definition of sensitive data than the WPA-based laws. Its definition of sensitive data includes financial information, social security numbers, and “the contents of a consumer’s mail, email, and text messages unless the business is the intended recipient of the communication.”

[Tennessee’s new law](#) is the only U.S. state data privacy law that defines sensitive data to include citizenship and immigration status.

Issue-Specific Privacy Laws

All of the laws discussed above provide comprehensive data protections, rights, or requirements for a range of data and types of businesses. However, legislators in many states also passed laws that focus on a single issue, type of data, or industry.

For instance, several states enacted child privacy laws in 2023. Many of these laws limit the collection and use of minors’ data. We discuss these laws in more depth in the Child Safety section below.

Four states – [Connecticut](#), [Maryland](#), [Nevada](#), and [Washington](#) – passed wide-ranging health privacy laws. All four established a series of new restrictions and requirements regarding the “collection, selling or sharing of consumer health data.” Importantly, the four laws also cover reproductive or sexual health data, as well as genetic and biometric data.

Beyond these broad health privacy laws, several states passed more targeted regulations related to reproductive, genetic, and biometric data privacy. [California](#) enacted a law that requires certain businesses that store medical information to enable security restrictions on abortion or abortion-related consumer data. [Hawaii](#) passed a law that prohibits any state official from issuing a subpoena based on a request from another state regarding an abortion performed legally in Hawaii. Finally, taking an opposite approach, [Montana](#) passed a law stating that the right to privacy established by the state constitution does not include the right to abortion.

[Minnesota](#), [Montana](#), [Tennessee](#), and [Texas](#) also passed new genetic privacy laws. These laws require genetic testing companies to provide consumers with information regarding the collection, use, and disclosure of their genetic data.

Similar to the comprehensive health data laws and the comprehensive consumer data privacy laws passed in 2023, the new law in [Montana](#) also covers biometric data. While there were no other major biometric privacy laws passed, [several](#) were introduced that were modeled on [Illinois's Biometric Information Privacy Act](#) (BIPA). These proposals would require companies to have a written biometric data policy, to inform consumers before collecting data, and to receive consent to sell data. Many of these proposals include a private right of action.

Beyond health-related laws, [Oregon](#) and [Texas](#) both enacted privacy laws regarding data brokers in 2023. Both laws require data brokers to register with the state before they can collect, sell, or license personal data. Furthermore, the [Texas law](#) states that data brokers who maintain an internet site or mobile application are required to provide consumers with a “clear,” “accessible,” and “not misleading” notice informing them that the entity maintaining the platform is a data broker. Texas data brokers are also required to take measures to protect consumer data under their control.

Restrictions on TikTok

In May, [Montana](#) passed a law that banned TikTok from all devices in the state. In signing the law, Governor Greg Gianforte argued that the ban was necessary to “protect Montanans from Chinese Communist Party surveillance.”

On November 30, a U.S. district court judge issued a [preliminary injunction](#) blocking the ban. The judge ruled that the plaintiffs would likely prevail on their claim that the law is unconstitutional because it violates the [First Amendment](#), the [Supremacy Clause](#), and the [Commerce Claim](#).

In addition, [governors](#) of 12 states imposed restrictions on state employees using TikTok on government-issued devices. They joined 22 other states that enacted similar restrictions in previous years. The Knight First Amendment Institute at Columbia University led a group of plaintiffs challenging Texas’s restriction in a suit filed in July, claiming that the law violated the First Amendment because it impeded academic freedom, teaching, and research. On December 11, a judge dismissed the suit.

Privacy Litigation

As states debate and pass new privacy legislation, some are using existing state unfair or deceptive trade practice laws to bring civil cases against platforms for privacy violations. For example, in September of 2023, [Google settled a \\$93 million lawsuit in California](#) regarding the tracking and storing of consumer location data.

While none of the new BIPA-modeled bills passed this session, over the past several years, consumers have used BIPA to pursue a [series of class-action lawsuits](#) against companies. In July 2023, Meta agreed to a [\\$68.5 million class-action BIPA settlement](#). In addition, the Illinois Supreme Court also [ruled this year](#) that under BIPA, a violation occurs each time a company collects or discloses an individual’s biometric information without prior informed consent, and each violation is thus entitled to damages. This ruling will likely lead to larger penalties for violations of the law, which has [already increased](#) the volume of BIPA litigation.



Assessing Our Predictions From Last Year

In 2022, we predicted that states would continue to pass comprehensive privacy laws based on the WPA. Eight states passed new comprehensive privacy laws in 2023, and all eight were modeled on the WPA.

We also predicted that more states would pass biometric and genetic privacy laws in 2023. This year, eight states passed laws related to genetic privacy, compared to 10 laws passed over the two previous sessions. Similarly, five states also passed biometric privacy laws, a notable increase from the previous year, when no states did.

Given the heightened debate over abortion rights in 2022, we predicted that the debate would spur state action on online privacy in 2023. Rather than passing narrow laws concerning reproductive privacy, states passed broader medical privacy laws that include abortion and reproductive privacy provisions.

Finally, we accurately predicted that the federal government would not enact abortion regulations that would slow states' efforts to implement their own privacy laws.

Looking ahead to 2024

- **States will continue to pass legislation modeled on the Washington Privacy Act.**
- **States with trifectas are most likely to pass comprehensive privacy legislation. There are 28 states with trifectas that have not yet passed comprehensive privacy protections.⁵**
- **States will continue to pass health, genetic, and biometric privacy laws.**

⁵ Sixteen states have Republican trifectas, but have not yet passed a comprehensive privacy law: Alabama, Arkansas, Georgia, Idaho, Louisiana, Mississippi, Missouri, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, West Virginia, and Wyoming. Twelve states have Democrat trifectas but have not yet passed a comprehensive privacy law: Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New Mexico, New York, Rhode Island, and Washington.

Content Moderation

- **No major content moderation bills passed this year. Although Republicans and Democrats both proposed content restrictions, their proposals sought to achieve different objectives.**
- **North Carolina passed a law restricting some online abortion-related speech.**
- **Florida passed a law on “jawboning,” restricting state employees from requesting platforms remove content.**

After a flurry of activity over the past several years, states passed only a small number of new content moderation laws in 2023. One possible reason is that the law on states’ authority to restrict platforms’ speech practices remains uncertain. The Supreme Court is scheduled to hear several key cases this term that may define state power in this area, including challenges to content moderation laws passed by Florida and Texas in 2021.

In this section, we review state activity focused on limiting platforms’ ability to moderate content, the content platforms can host, and jawboning by government officials.

Limiting Platform Content Moderation

Legislatures did not pass any new restrictions on platforms’ ability to moderate content in 2023. [Texas](#) passed a law governing venue determinations in civil cases. The law requires that any civil action against social media platforms related to censorship take place in Texas courts and be governed by Texas law.

That being said, legislators in at least seven states proposed restrictions similar to those included in Florida and Texas laws that prohibit platforms from removing or demoting certain political, religious, or journalistic content. The Supreme Court [will hear](#) challenges to those laws this term.

Limits on Platform Content

Two states passed laws that require platforms to remove certain content. In addition to requiring platforms to post policies requiring content about illegal substances, a bill passed in [California](#) permits individuals to request court orders for the removal of social media content that facilitates the distribution of controlled substances.

The new 12-week abortion ban passed by [North Carolina Republicans](#) includes a provision restricting certain online content “promoting” the abortion pill.⁶ Republicans in several other states [introduced legislation](#) that would have imposed more extensive restrictions on platforms that host abortion-related content.

Jawboning

This year, a suit brought by the attorneys general of [Missouri and Louisiana](#) against the Biden administration brought increased attention to “[jawboning](#),” the practice of government officials coercing platforms to change how they moderate content. In July, a district court issued a [temporary injunction](#) barring several federal agencies from engaging with social media companies.

Florida passed [a law aimed at limiting the practice](#). The law prevents government employees from “communicat[ing] with a social media platform to request that it remove content or accounts from the social media platform.” Legislators in [Arizona](#) and [Connecticut](#) introduced bills with similar provisions, but these did not pass.

⁶ For more information on this topic, see [this piece](#) that we co-authored with UNC Law Professor Mary-Rose Papandrea discussing the constitutionality of the provisions in the North Carolina law.

Assessing Our 2023 Predictions

Last year, we predicted that legislators would continue to introduce bills modeled on the Florida and Texas content moderation laws. No new laws modeled on the Florida and Texas laws passed this term, although several states considered related bills.

We also predicted that several states would pass new laws related to online abortion speech. North Carolina was the only state that imposed restrictions on online abortion speech.

Looking ahead to 2024

- **If the Supreme Court upholds the Texas and Florida laws, then a large number of states with Republican trifectas will pass similar laws in the spring and summer. If the Supreme Court strikes down the laws, then few states will seek to restrict platforms' content moderation practices in this year's legislative sessions.**
- **If the Supreme Court upholds the Florida law's transparency provisions, then both Republican trifectas and Democrat trifectas are likely to pass new laws mandating platform transparency.**
- **States are unlikely to pass laws imposing online abortion speech restrictions.**

Antitrust

- **No comprehensive antitrust reform passed.**
- **No app store bills passed.**
- **State attorneys general continued to use multistate litigation to enforce existing antitrust laws, including joining two new federal suits against Google and Amazon.**

State legislatures gave little attention to antitrust this year. Not only were no new major antitrust laws passed by the states this year, but very few bills were introduced. After significant interest last year by states in imposing new laws to govern app stores, there were very few app store bills introduced. [Illinois](#) was the only state that introduced a bill, which would have prevented app stores from requiring apps to use specific payment systems. It did not pass.

While there was little activity in state legislatures, state attorneys general pursued significant antitrust litigation. Most notably, in September, 17 states joined the FTC in suing [Amazon](#) for anticompetitive practices. The [Complaint](#) alleged that Amazon engaged in two primary anticompetitive practices that allowed the company to maintain a monopoly position: its “price parity provision” prevented merchants from offering their goods for lower prices on other platforms, and it required sellers to use Amazon’s fulfillment service to obtain “Prime” eligibility for their products.

In addition, eight states joined the Department of Justice this year in suing Google for undermining

competition in digital advertising. The Complaint alleged that Google’s anticompetitive conduct included acquiring competitors, manipulating auctions, forcing the adoption of Google tools, and distorting auction competition. Notably, this suit is similar to [an ongoing case filed](#) in 2020 by a group of 11 states and the Department of Justice.

Epic’s win in a jury trial against Google could spark renewed interest in app store legislation, but it may be more likely that the case’s primary impacts are on litigation rather than legislation. Plaintiffs may start to turn to jury trials in antitrust cases against tech companies.

Assessing Our 2023 Predictions

We accurately predicted that states were not likely to make significant changes to their antitrust laws, such as last year’s failed [New York proposal](#) to establish an “abuse of dominance” standard. We also correctly predicted that antitrust would continue to be a focus of multistate litigation by state attorneys general. However, we overestimated the likelihood that states would pass new laws regulating app stores.

Looking ahead to 2024

- **Revisions to state antitrust laws remain unlikely. California may consider antitrust legislation once the [California Law Revision Commission](#) releases its findings and recommendations on revising the state’s antitrust laws in 2024.**
- **Antitrust enforcement through multistate litigation will likely remain a significant priority for both Republican and Democratic attorneys general.**

Online Child Safety

- **Thirteen states passed 23 new online child safety laws in 2023. Of all tech policy issues covered in this report, states were most active in this area.**
- **Both parties ramped up efforts on child safety, but Republican-led states passed four times the number of new laws as Democrat-led states.**
- **Seven states passed laws requiring age verification for online adult content.**
- **One state enacted a law loosely modeled on California’s safety law.**
- **Republican lawmakers embraced a “parental rights” framework, passing several laws requiring age verification for social media and parental oversight.**
- **Two states passed laws requiring computers in public schools to have software that prevents children from accessing sexual or graphic content.**
- **Litigation is shaping the field. Several recent laws remain hung up in litigation, including Arkansas’s social media age verification law, Texas’s adult content age verification law, and California’s safety law. In addition, states filed new suits alleging that platforms cause harm to children.**

Below we examine six types of online child safety legislation passed by states: age verification, age-appropriate design, children’s data privacy, social media restrictions, parental rights, and student restrictions, before analyzing major child safety-related litigation.

Age Verification for Adult Content

This year, seven states passed new laws requiring online platforms verify the ages of users if their content is more than 33% pornographic. Each of these laws is adapted from a law passed in [Louisiana](#) last year.

While these laws are very similar across states, the version passed in [Texas](#) has two significant differences from the other laws. First, it requires covered adult websites to include the following disclaimers in at least 14-point font along with the phone number for a state helpline:

TEXAS HEALTH AND HUMAN SERVICES
WARNING: Pornography is potentially biologically addictive, is proven to harm human brain development, desensitizes brain reward circuits, increases conditioned responses, and weakens brain function.

TEXAS HEALTH AND HUMAN SERVICES
WARNING: Exposure to this content is associated with low self-esteem and body image, eating disorders, impaired brain development, and other emotional and mental illnesses.

TEXAS HEALTH AND HUMAN SERVICES
WARNING: Pornography increases the demand for prostitution, child exploitation, and child pornography.

Second, while each of the other law is a “[bounty law](#),” leaving enforcement to state citizens suing providers that fail to comply, the Texas law allows the attorney general to enforce the law.

These laws have been challenged in court by the [Free Speech Coalition](#), the trade association for the adult industry, on the grounds that they violate the First Amendment. While a federal court [enjoined](#) the law passed in Texas in late August, the court of appeals quickly [reversed](#) that decision, allowing the law to go into effect. Suits against similar laws in [Utah](#) and [Louisiana](#) were both dismissed on the grounds that the state government, which does not enforce a “[bounty law](#),” is not the correct target of litigation. In early June, [Louisiana](#) passed an amendment to its original 2022 law, allowing the attorney general to bring cases, like the Texas law.

Age-Appropriate Design

One state passed a law modeled on California's [Age-Appropriate Design Code Law](#) (AADC) this year. A new law passed in [Connecticut](#) includes some similarities to the California law. Both laws require covered companies to complete data protection impact assessments and to minimize data collection to what is strictly necessary.

However, the Connecticut law makes significant changes to the AADC model. Most notably, the Connecticut bill applies only to sites that have "actual knowledge" of minors' access, as opposed to the AADC's applicability to all sites "likely to be accessed" by minors. The Connecticut bill also jettisons the AADC's age verification requirements.

Bills in [Maryland](#), [Minnesota](#), and [New Mexico](#) were explicitly modeled on the AADC, but they failed to pass. Maryland and Minnesota legislators have signaled that they will [reintroduce](#) the law in 2024.

In September, a federal district court judge in California [enjoined the AADC](#), largely on First Amendment grounds. California Attorney General Rob Bonta has [appealed](#) the decision. The outcome of that case is likely to affect whether other states seek to adopt California's model.

Children's Data Privacy

The eight comprehensive privacy laws that passed this year all include limitations on the collection and processing of personal data of minors without the affirmative consent of a parent or guardian. Similarly, several laws, such as one in [Utah](#), restrict social media platforms' data collection to the data that is necessary to provide services, and permit processing data only for its stated purpose.

Social Media Restrictions

Although the AADC-style bills found little success this year, several Republican-led states established new requirements regarding how social media platforms interact with minors.

Some of these impose broad requirements on platforms to minimize harm to minors. A new [Utah](#) law allows users to sue social media platforms for nearly any harm. If the defendant is under 16, "there shall be a rebuttable

presumption that the harm actually occurred and that the harm was caused as a consequence of using or having an account on the social media company's social media platform." The same bill prohibits any "practice, design, or feature" that causes a minor "to have an addiction to the social media platform." Similarly, a bill passed in [Florida](#) restricts platforms from using "dark patterns," or any design feature "with the substantial effect of subverting or impairing user autonomy, decision-making, or choice."

A law passed in [Connecticut](#) asserts that social media platforms "shall use reasonable care to avoid any heightened risk of harm to minors caused by such online service, product or feature." Similarly, [a law passed in Texas](#) establishes that social media platforms, and all other digital service providers, have a "duty to prevent harm." However, the law defines this duty as developing a strategy to prevent children from accessing content that "promotes, glorifies, or facilitates" topics like suicide, self-harm, bullying, grooming, or trafficking.

Several new laws also establish restrictions on specific social media features or practices. For example, laws passed in [Texas](#) and [Utah](#) limit advertising shown to minors. A law passed in Utah requires social media platforms turn off direct messaging with "any other user that is not linked to the account through friending," prohibiting showing minors accounts in search results, or suggesting any "groups, services, products, posts, accounts, or users."

California passed a [law](#) that allows for civil action against social media platforms that "facilitate, aid, or abet" commercial sexual exploitation by "deploy[ing] a system, design, feature, or affordance that is a substantial factor in causing minor users to be victims of commercial sexual exploitation."

Parental Rights

Many of these new requirements are part of broader efforts to grant parents more control over what their children can access online, often as [part of](#) the "Parents' Bill of Rights" legislation. For example, one child safety law passed in [Texas](#) is named the "Securing Children Online through Parental Empowerment (SCOPE) Act."

In 2023, [Utah](#) and [Arkansas](#) passed requirements that minors under 18 must obtain parental consent to register a social media account. This means that

platforms must verify the ages of all social media users, and then create mechanisms for parents to consent to minors' use of a product. Under the Utah law, parents or guardians must also be given the ability to view most of the content the minor accesses, including "all posts the Utah minor account holder makes under the social media platform account; and (2) all responses and messages sent to or by the Utah minor account holder in the social media platform account." It also restricts minors from accessing social media between the hours of 10:30 pm and 6:30 am without parental consent.

A law passed in [Texas](#) this year requires platforms to provide tools that allow parents or guardians to control privacy and account settings, restrict purchases, and "monitor and limit the amount of time" spent on the platform.

The Internet trade group, NetChoice, filed a [lawsuit](#) challenging the Arkansas law last June, alleging that the law violated the First Amendment. In August, a judge [granted](#) NetChoice's request for a preliminary injunction.

[Texas](#), [Louisiana](#), and [Ohio](#) also passed laws imposing a different model of age verification requirements for social media. These laws limit minors under 18 from signing a contract with a platform, such as accepting a platform's terms of service. None of the three laws explicitly requires that all platforms proactively verify the age of users, unless they have "actual knowledge" that a child is using the platform, or in the case of the Ohio law, if it "targets children, or is reasonably anticipated to be accessed by children."

Republican legislators introduced several other proposals that would have granted parents additional ability to monitor and control their children's social media usage. Legislators introduced device filtering bills in at least six states - [Montana](#), [Idaho](#), [Tennessee](#), [South Carolina](#), [Alabama](#), and [Texas](#) - that would require all devices sold in the state to come pre-installed with software that "prevents the user from accessing or downloading material that is obscene to minors," unless disabled by parents. Similarly, legislators in several states, including [California](#) and [North Carolina](#), introduced bills that would require most social media platforms to allow third-party monitoring software to access platform APIs.⁷

⁷ Referred to as "Sammy's Law," the bill is named after a minor who [died after buying](#) tainted drugs on Snapchat. This provision was also introduced in [federal legislation](#) by Rep. Debbie Wasserman Schultz (D-FL).

Student Protection Laws

Several new state laws apply restrictions on how minors use the internet in schools and on school devices. A law passed in [Florida](#) limits any app that is "used primarily" in K-12 schools or that is "designed and marketed for K-12 school purposes" to "collect[ing] no more covered information than is reasonably necessary." It also prohibits covered platforms from including targeted advertising, requires these apps to maintain security procedures and practices, and discloses student data only in limited situations.

A second [Florida](#) law requires that school districts attempt to prevent students from "accessing social media platforms through the use of Internet access provided by the school district," except when directed by teachers. It also limits the types of content that students can access, specifying that it should be "only age-appropriate subject matter."

A law passed in [Mississippi](#) requires that all platforms used in public schools include software that prohibits students from viewing or distributing sexual or violent material.

Litigation

States filed several significant lawsuits targeting online child safety in 2023.

In October, 41 states and the District of Columbia [filed a suit](#) against Meta alleging that it violated state consumer protection laws outlawing unfair and deceptive practices because Meta:

- deceptively represented that the features were not manipulative; that its Social Media Platforms were not designed to promote young users' prolonged and unhealthy engagement with social media; and that Meta had designed and maintained its Social Media Platforms to ensure safe experiences for young users.

The suit also alleges that Meta violated the federal [Children's Online Privacy Protection Act](#) because it had actual knowledge that there were children under 13 on its platforms, but did not attempt to obtain parental consent before collecting and monetizing their personal data.

In addition, [several school](#) districts filed lawsuits against multiple platforms. The case was [consolidated](#) into a single multidistrict complaint. The master [Complaint](#), which now includes [hundreds](#) of school districts, includes 18 counts. The districts allege that the platforms designed their products to be addictive and harmful to minors.

Assessing last year's predictions

Last year, we predicted that both parties would prioritize online child safety policy. This prediction was borne out: legislatures controlled by Republicans and legislatures controlled by Democrats both passed child safety legislation. Although there is some bipartisan

consensus on this issue, child safety bills – including social media restrictions, parental rights, and age verification bills – all found more success in Republican-led states.

We overestimated the likelihood that states would pass laws modeled on California's AADC. While the law in Connecticut adopts some elements of that approach, far more states embraced alternatives that are more focused on securing the rights of parents to monitor and restrict minors' use of digital services.

We also did not anticipate how successful verification for adult content laws would be. Louisiana's law has become a popular model, with several states passing similar legislation.

Looking ahead to 2024

- **States will continue to pass parental rights laws as the 2024 election approaches.**
- **Republican-led states will continue to pass laws requiring age verification for sites with adult content. There are 16 states with Republican trifectas that have not passed these laws.**
- **While we expect a trickle of AADC-style bills to be introduced, passage remains unlikely.**
- **State attorneys general will continue to be active, exploring theories like product liability as the basis for child safety litigation.**
- **Ongoing litigation will shape what state legislatures can do. The appeals of NetChoice's challenges to the California and Arkansas laws will affect the scope of state power to legislate in this area. If NetChoice prevails on appeal, the pace of legislative activity in this area will slow.**
- **The Supreme Court's decision in the Texas and Florida cases will also impact how states can regulate child safety. If the states win, several states will pass child safety laws that dictate platform content moderation practices.**
- **Few states will follow Montana's lead in banning TikTok, due in part to legal hurdles.**

Taxation

- **No states passed new internet tax laws in 2023.**

No states successfully passed new internet taxes in 2023. Maryland's [digital tax law](#) was passed in 2021, subsequently enjoined by the Circuit Court of Anne Arundel County, and then [reinstated](#) by the State Supreme Court in May 2023. The State Supreme Court did not rule on the merits of the law but instead ruled that the Circuit Court did not have jurisdiction to enjoin the law. While the tax [remains in effect](#), some [expect](#) further litigation. None of these bills passed.

Despite the uncertainty surrounding the legality of Maryland's approach, legislators in four states introduced bills that would impose new digital advertising taxes similar to the Maryland tax: [New York](#), [Massachusetts](#), [Connecticut](#), and [Indiana](#). Proposing a slightly different approach to the Maryland bill, legislators in New York introduced several bills that would impose taxes on data mining and data sales.

Assessing last year's predictions

Given the difficulty the Maryland bill has had in court, we predicted last year that states would not introduce Maryland-style taxes on digital advertising. Instead, we suggested that states would explore alternative models for internet taxation. We were wrong on both counts. With a few exceptions, states have not proposed alternative approaches to taxing digital platforms, and several states introduced bills modeled on the Maryland law.

Looking ahead to 2024

- **States will not focus much attention on digital tax in 2024. We will continue to see a small number of states introduce Maryland-style bills, but they are unlikely to pass.**



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