

Publications

Senators Propose the COVID-19 Consumer Data Protection Act

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[Christopher L. Ingram](#)

[John L. Landolfi](#)

[Christopher A. LaRocco](#)

[Gretchen Rutz Leist](#)

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U.S. Senators Roger Wicker, John Thune, Jerry Moran, and Marsha Blackburn recently announced their plan to introduce the COVID-19 Consumer Data Protection Act (the Act), seeking to provide Americans more transparency and control over the collection and use of “covered data” during the COVID-19 public health emergency. “Covered data” under the Act means precise geolocation data, proximity data, and personal health information. For purposes of this Act, aggregated data, de-identified data, and publicly available information are not covered data.

Among other things, the Act would require entities under the jurisdiction of the Federal Trade Commission (FTC), common carriers, and nonprofit organizations to:

- Obtain “affirmative express consent” from individuals before collecting, processing, or transferring covered data for the purposes of tracking the spread of COVID-19.
- Disclose in the entity’s privacy policy, available prior to or at the point of collection of covered data, if the entity collects, processes, or transfers covered data to (i) track the spread of COVID-19, (ii) determine compliance with social distancing guidelines, or (iii) conduct contact tracing for COVID-19 cases.
- Issue monthly reports to the public describing data collection activities related to COVID-19.
- Provide consumers with an effective mechanism for individuals to opt-out of the collection, processing, or transfer of covered data.
- Delete or de-identify all covered data when it is no longer being used for the COVID-19 public health emergency.
- Minimize data collection and implement data security procedures.

The Act would also require the FTC to issue guidelines recommending best practices for data minimization. State attorneys general would have the authority to enforce the Act.

For questions about this Act or privacy laws in general, please contact Christopher Ingram, John Landolfi, Christopher LaRocco, Sarah Boudouris, Gretchen Rutz, or your Vorys attorney.

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VORYS COVID-19 TASK FORCE

Vorys attorneys and professionals are counseling our clients in the myriad issues related to the coronavirus (COVID-19) outbreak. We have also established a comprehensive COVID-19 Task Force, which includes attorneys with deep experience in the niche disciplines that we have been and expect to continue receiving questions regarding coronavirus. Learn more and see the latest updates from the task force at vorys.com/coronavirus.