



March 29, 2024
Via Electronic Mail

The Honorable Liz Krueger
Chair, Committee on Finance
New York State Senate
416 Capitol Building
Albany, NY 12247

The Honorable Helene E. Weinstein
Chair, Committee on Ways and Means
New York State Assembly
711-A Legislative Office Building
Albany, NY 12248

The Honorable Kathy Hochul
Governor of New York State
633 3rd Ave, 38th Floor
New York, NY 10017

Dear Governor Hochul, Chair Krueger, and Chair Weinstein:

In today's increasingly data-driven world, the U.S. stands out among peer nations for lacking robust comprehensive privacy protections, and instead has relied on a failed notice-and-consent regime. Companies, government agencies, and nonprofits collect, process, and transfer people's data with little oversight or accountability, leading to a range of harms, including data breaches, discrimination based on protected characteristics, and fraud targeting marginalized members of society. People rightly feel they are losing control of their data and are forced to accept privacy practices they do not agree with simply to use the internet and access basic services.

Our organizations, which focus on privacy among other tech policy issues, have been tirelessly working toward protecting people's privacy in a variety of ways, at both the federal and state levels.

Thank you for your attention on protecting your state residents' privacy through your work on the New York Privacy Act (NYPA), which has been included as Part BB in the Senate budget bill, S. 8305-b. While the legislation contains some useful provisions that would provide some privacy protections, it should go further to effectively protect people's privacy. **Therefore, we oppose NYPA's inclusion in the budget bill, and we suggest you remove it to allow for further discussion and to continue improving it.**

To be effective, a comprehensive privacy bill should accomplish at least the following:

- Move beyond the failed notice-and-consent regime by enacting strict data minimization requirements. Privacy legislation should meaningfully limit the collection and use of personal data (sensitive data in particular) to what is essential to provide the product or service the consumer is requesting, rather than allowing companies to continue to set

their own privacy rules through permissive privacy policies that no one reads. This change would better align business' data practices with consumers' expectations.

- Define sensitive data broadly to include at least health, finance, communications, browsing history, and proxies of those types of data.
- Prevent discriminatory and biased processing of data by including civil rights language that protects against disparate treatment and disparate impact from data practices.
- Ensure effective enforcement, including by allowing consumers to bring lawsuits directly, through a privacy right of action, against companies that violate their privacy.

A privacy law should include several other protections, but we highlight here the key minimum requirements for an effective law. We would be glad to provide any assistance that may be helpful in ensuring your bill meets these goals. Please feel free to reach out to Eric Null, enull@cdt.org, and Caitriona Fitzgerald, fitzgerald@epic.org, with any questions.

Respectfully submitted,

Center for Democracy & Technology
Electronic Privacy Information Center