

# Investigating the American Privacy Rights Act of 2024

An important step forward on a U.S. national privacy standard, but still a long way to go.

## A good start, in a few ways...



- **Addresses a real problem that Americans actually care about: data privacy.**
  - Surveys consistently show Americans are overwhelmingly concerned about the use and protection of their digital information when polled on tech policy issues.
- **Includes a “right to cure” for injunctive relief and awards for actual damages.**
  - Entities have the opportunity to remedy alleged violations before individuals can seek injunctive relief or actual damages, so compliance can be the goal, rather than punishment for accidents. (pg. 127, lines 1-14 & pg. 128, lines 1-13)
- **Includes a separate section on data security.**
  - It dedicates an entire section to data security requirements, addressing the need for covered entities and service providers to protect the confidentiality, integrity, and accessibility of covered data. (pg. 69-72)

## But there are flaws that must be addressed...



- **Fails to create a true national standard.**
  - It includes carveouts for “special” states like Illinois & California, preventing establishment of a single privacy law for all Americans. (pg. 129-132)
- **Fails to cover all data collectors equally.**
  - Americans don’t care about the tax status of people who abuse their data, only that the data is being abused. But multi-million dollar non-profits & businesses less than \$40 million are not covered. That means that 501(c)(3)s can collect, use, misuse, and lose sensitive data on Americans with impunity. (pg. 29, lines 17-24)
- **Opens the door for exploitative and frivolous lawsuits.**
  - It allows for a private right of action, which could lead to a proliferation of frivolous lawsuits to exploit the system for profit rather than protect consumer privacy. (pg. 123-129)
- **Makes it challenging for young people to use digital services and learn.**
  - By classifying all data on individuals under the age of 17 as sensitive, young people may have a more difficult time accessing & using online resources for learning and personal development, and may also counterproductively result in minors seeing inappropriate ads for things like alcohol. (pg. 25, lines 16-17)
- **Imposes burdensome requirements on small businesses.**
  - By targeting small and midsize businesses with incredible compliance costs and putting a civil litigation target on them, this will drown small businesses in costly compliance rules and red tape. (pg. 29-31)
- **So-called “Opt-Out rights” create a two-class internet.**
  - This provision would require businesses to deny users from engaging with content like sponsored surveys, frequent visitor discounts, and for free versions of apps with interest based ads. (pg. 66, lines 8-15)
- **Injects DEI into Privacy**
  - The bill requires assessing disparate impact on the basis of DEI characteristics. (pg. 92-93)