CALIFORNIA PRACTICE GUIDE
PRIVACY LAW
2026 UPDATE

This 2026 softbound Update completely replaces the 2025 Update.

These Highlights summarize some of the most significant developments over the past year. Paragraph numbers refer to the 2026 edition of the Practice Guide where the topics are discussed in greater detail.

Check for Case/Statutory/Rules Developments: Our cut-off date for this Update was September 15, 2026. Some new cases may not have been final at that time and may be affected by later developments. In addition, unless specifically noted, this Update does not include case, legislative or rules changes taking effect after our press date. Counsel should check subsequent case histories and independently verify the current state of the law, including any developments that may affect the analysis in this Practice Guide.

Thank You! We encourage your comments and suggestions regarding this Practice Guide. *Please keep them coming!*

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2026 UPDATE HIGHLIGHTS

CHAPTER 2

CONSTITUTIONAL/COMMON LAW PRIVACY

State Constitutional Right to Privacy

[2:69] **Legally protected privacy interests:** Allegations of reasonable expectation of privacy were sufficient where Defendants' website represented that browsing activity and private communications would remain private if the consumer elected to decline cookies. [*Pemberson v. Restaurant Brands Int'l, Inc.* (ND CA 2025) 2025 WL 3268404, *4 (unpub. opn.)]

[2:81] **Employee use of workplace computers:** Employee had reasonable expectation of privacy in her personal email account files stored on company-owned laptop where employer's express policy permitted personal uses on company-owned devices. [*Lim v. Expel, Inc.* (SD CA 2025) 2025 WL 3458981, *3-6]

[2:89] **Serious privacy invasions:** Internet tracking and collection where the defendant affirmatively promised users that their browsing activity would not be tracked constitutes a serious privacy invasion. [*Wiley v. Universal Music Group, Inc.* (ND CA 2025) 826 F.Supp.3d 1121, 1133]

Intrusion Upon Seclusion

[2:320] **Defendant must not be intended recipient:** Intrusion upon seclusion claim is not viable if plaintiff intended defendant to receive information, even if subsequently disclosed to third party providers. [*E.H. and V.P. v. Lifelong Adoptions, Inc.* (ED CA 2026) 2026 WL 2138062, *4 (collecting cases)]

[2:340] **Intrusion must be intentional:** Dismissing intrusion claim against Shopify because Shopify obtained plaintiffs' consent, so plaintiffs failed to allege requisite intent to violate law. [*Briskin v. Shopify Inc.* (ND CA 2026) 2026 WL 161441, *5]

[2:349.1] **Pleadings challenges:** Some courts have recognized that the question of whether a particular intrusion is highly offensive to a reasonable person may not be resolved at the pleading stage. Instead, the egregiousness of the privacy intrusion may be a question of fact for the jury. [*Lewis v. Magnite, Inc.* (CD CA 2025) 2025 WL 3687546, *9 (citing *In re Facebook, Inc. Internet Tracking Litig.* (9th Cir. 2020) 956 F3d 589, 606) (collecting cases)]

Common Law/Statutory Right of Publicity

[2:521.1] **Injunctive relief:** A plaintiff may seek an injunction or temporary restraining order pursuant to CCP §527. [New Civ.C. §3344(a)(2)]

Article III Standing

[2:603.1] **Concrete harm:** Plaintiff bringing claims for violation of Pa. wiretap statute failed to allege injury that met "highly offensive" standard necessary for common law claims of privacy

violations in federal court. [*Popa v. Microsoft Corp.* (9th Cir. 2025) 153 F4th 784, 791-792]

[2:617] **Wrongful disclosure of personal information:** Article III standing was established by adequately pleading underlying COPPA violation as COPPA likely falls within category of statutes protective of substantive privacy rights. [*In re TikTok, Inc., Minor Privacy Litig.* (CD CA 2025) 2025 WL 3628598, *11]

CHAPTER 3A

CALIFORNIA CONSUMER PRIVACY ACT

California Consumer Privacy Act (CCPA)

[3:92] **"Medical information":** Medical information includes individually identifying information regarding immigration status, both current and prior, or place of birth if known or collected by a provider of health care, health care service plan, pharmaceutical company, or contractor. [See Amended Civ.C. §1798.145(c)(2)]

[3:144b] **Use of analytics/advertising cookies:** The CPPA has taken the position that the use of website cookies and similar tracking technologies (e.g., cookie identifiers, IP addresses, and other unique identifiers) that make consumer personal information available to third parties for advertising purposes results in the sale/share of consumer personal information. [*In the Matter of Tractor Supply Co.* (2025), Case No. ENF24-M-TR-04, Stipulated Final Order ¶35]

[3:148] **Additional requirements for online businesses:** *Effective January 1, 2027*, the business must also make an online method, such as web form or online portal available to submit requests. [Amended Civ.C. §1798.130(a)(1)(A)]

Consumer's Right to Be Forgotten

[3:159.1] **Consumer's Right to Be Forgotten ("Requests to Delete"):** *Effective January 1, 2027*, personal information that must be deleted pursuant to a request to delete includes information collected by the business or third parties *about* the consumer. [Amended Civ.C. §1798.105(a)]

[3:159.18] **Third party personal information about consumer (eff. 1/1/27):** *Effective January 1, 2027*, personal information about a consumer from a source other than the consumer must be deleted in compliance with a consumer's request to delete. [New Civ.C. §1798.105(c)(2)]

Consumer's Right to "Opt-Out"

[3:194.6a] **Opt Me Out Act (eff. 1/1/27):** *Effective January 1, 2027*, California's Opt Me Out Act requires businesses that develop or maintain browsers to include an opt-out functionality for consumers to enable the browser to send an opt-out preference signal to the businesses that the consumer interacts with. [New Civ.C. §1798.136(a)-(b), (f)]

[3:194.6b] **Public disclosures required:** Businesses that develop

or maintain browsers are required to make clear to consumers in their public disclosures how the opt-out preference signal works and its intended effect. [New Civ.C. §1798.136(b), (f)]

CCPA Enforcement

[3:273.2] **Allegations sufficient to plead Civ.C. §1798.150(a)** violation: Allegations that defendant failed to outsource payment processing to a third party and included customer/payment information on artists' websites, allowing hackers to exploit weaknesses and gain access to personal information were sufficient. [*In re Warner Music Group Data Breach Litig.* (SD NY 2025) 2025 WL 2531832, *23]

[3:273.6] **Website tracking technologies may be sufficient:** Allegation that plaintiff's personal information regarding loan application process was shared with third parties sufficient because language of Civ.C. §1798.150(a)(1) covers unauthorized disclosure of private information regardless of whether disclosure was intentional or negligent, or if disclosure was made by third party or defendant's agents. [*Allison v. PHH Mortg.* (ND CA 2026) 2026 WL 1353827, *8]

CHAPTER 3B

DATA PROCESSING AGREEMENTS (DPAS)

Preliminary Considerations

[3:504-504.1; 3:700-718] **New state privacy laws:** DPAs are now required in 19 states, including Indiana. [See discussion at ¶*3:700 ff.*]

GDPR's DPA Requirements

[3:664.1] **Organizations recognized as providing adequate protection:** The European Commission has recognized the European Patent Organisation as providing adequate protection. [See European Commission, Commission Implementing Decision (EU) 2025/1382 of 15.7.2025 pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council on the adequate protection of personal data by the European Patent Organisation, available at eur-lex.europa.eu]

CHAPTER 4

TECHNOLOGY AND ONLINE PRIVACY

California Customer Records Act (CRA)

[4:79] **"Customer" defined:** Since CRA defined "business" as having established business relationship with customer and Legislature made deliberate choice to use "customer" instead of "consumer," student was not a "customer" of school district's business contract and had other laws to bring claims for privacy violations. [*J.M. v. Illuminate Ed., Inc.* (2026) 19 C5th 705, 724, 344 CR3d 178, 191-192]

[4:135] **Time for disclosure (or notification):** The disclosure

(or notification) must be made *within 30 calendar days* of the discovery or notification of the data breach. [Amended Civ.C. §1798.82(a)(2)]

[4:136.1] **Delay for determining breach scope/containment:** Disclosure may be delayed as necessary to determine the scope of the breach and restore the reasonable integrity of the data system. [New Civ.C. §1798.82(a)(2)(B)]

California Invasion of Privacy Act (CIPA)

[4:206] **"In transit":** Courts are split on whether software provided to website providers by third parties that collect information about internet communications collect information "in transit." [See *Doe v. Eating Recovery Center LLC* (ND CA 2025) 806 F.Supp.3d 1109, 1117-1118]

[4:222.1] **Jurisdictional requirements:** Plaintiff made prima facie showing to establish Shopify directed conduct towards California by targeting California consumers to extract, collect, maintain, distribute and exploit for its own profit, California consumer payment information and personal identifying information. [*Briskin v. Shopify, Inc.* (9th Cir. 2025) 135 F4th 739, 750-761 (collecting cases)]

[4:281.1] **Applicability to internet data collection tools uncertain:** Federal and state courts have interpreted Pen.C. §638.50(b) differently, with federal courts applying it expansively versus state courts limiting the statute to telephone and telegraph communications. [See *Blalock v. EquipmentShare.com, Inc.* (2026) 2026 WL 330067, *2 (unpub. opn.); *Blaker v. NetScout Systems, Inc.* (2026) 2026 WL 1709143, *2-4 (unpub. opn.); *Sanchez v. Cars.com Inc.* (2025) 2025 WL 487194, *3 (unpub. opn.)]

[4:281.2] **Private actions for online conduct prohibited (eff. 1/1/27):** *Effective January 1, 2027*, CIPA no longer permits private actions under Pen.C. §638.51 for conduct occurring on an internet website, online application or mobile application. Instead, such claims can only be brought by the Attorney General. [New Pen.C. §637.2(d)(1)]

[4:281.3] **Retroactive to claims filed from 1/1/25:** The elimination of the private right of action for Pen.C. §638.51 claims applies retroactively to claims filed *on or after January 1, 2025*. [New Pen.C. §637.2(d)(2)]

[4:291] **Actual damages:** Violation of one's privacy rights is injury, and statute does not require more. [*Camplisson v. Adidas America, Inc.* (SD CA 2025) 809 F.Supp.3d 1095, 1104]

[4:291.1] **Compare—federal court standing:** Although actual damages are not required for a CIPA claim under Pen.C. §637.2(c), a plaintiff suing in federal court must allege concrete injury to satisfy Article III standing. [*Popa v. Microsoft Corp.* (9th Cir. 2025) 153 F4th 784, 791-792]

Registration of Data Brokers ("Delete Act")

[4:487] **Additional registration requirements:** New requirements for information required to be registered by a data broker registering with the CPPA. [Amended Civ.C. §1798.99.82(b)(2)]

CHAPTER 6

MEDICAL AND HEALTH-RELATED INFORMATION PRIVACY

California Confidentiality of Medical Information Act (CMIA)

[6:61] **Limited to "individually identifiable" medical information:** Disclosure of fact that individual filled out form that may have contained medical information, as opposed to contents of form, is not "medical information" under CMIA. [*Sisti v. Bosley Inc.* (CD CA 2026) 831 F.Supp.3d 979, 992]

[6:61.1a] **"Reproductive or sexual health application information":** Definition of reproductive or sexual health services application is broad. [*J.S. v. Spring Fertility Holdings, LLC* (ND CA 2026) 2026 WL 1483490, *6 (unpub. opn.)]

[6:61.3] **Immigration information:** Information regarding immigration status, including current or prior immigration status or place of birth is medical information subject to CMIA if known or collected by a provider of health care, health care service plan, pharmaceutical company or contractor. [New Civ.C. §56.05(j)(2)]

[6:76] **General duty to preserve confidentiality of medical information:** Confidentiality requires keeping the information private or secret and it is compromised when it is made public or exposed to an unauthorized party. [*J.M. v. Illuminate Ed., Inc.* (2026) 19 C5th 705, 721, 344 CR3d 178, 189]

[6:108-108.1] **Prohibition related to immigration enforcement:** A provider of health care, health care service plan, contractor or corporation (including its subsidiaries and affiliates) is prohibited from disclosing medical information for immigration enforcement without express authorization. [New Civ.C. §56.10(f)]

[6:166.1] **Foreign subpoenas:** A health care provider, health care service plan, or contractor is prohibited from complying with a foreign subpoena, unless the subpoena is accompanied by a court order issued pursuant to CCP §2029.300. [Amended Civ.C. §56.10(b)(1)]

[6:166.2] **Exceptions for gender-affirming health care:** See Amended Civ.C. §56.109(a)-(c).

[6:454] **Exposure to unauthorized party sufficient:** For a breach of confidentiality to occur under the CMIA, a "mere loss of possession due to negligence" may not be sufficient to establish a breach of confidentiality. [*J.M. v. Illuminate Ed., Inc.* (2026) 19 C5th 705, 721-722, 344 CR3d 178, 189-190]

Confidentiality of Psychiatric/Mental Health Records Under Lanterman-Petris-Short Act

[6:621-621.1] **"Willfully" and "knowingly":** "Willfully" means that someone intentionally released records which are otherwise confidential, and "knowingly" relates to defendant's knowledge of the fact that the person requesting the record is not entitled to it under the Act. [*Doe v. County of Orange* (2025) 113 CA5th 1276, 1285-1287, 336 CR3d 605, 612, 613]

Transgender Privacy Act (previously discussed in Chapter 10)

[6:850-852] **Overview:** The Transgender Privacy Act applies to (i) any petition for a change of name and/or sex identifier filed *on or after July 1, 2026*; (ii) proceedings that the court orders to be kept confidential at the request of the petitioner for petitions filed before July 1, 2026; or (iii) previously confidential records by statute or otherwise. [New Health & Saf.C. §103437(c)(1)-(3)]

[6:853-858] **Limitations on access to court records:** New restrictions on access to court records related to an order to change name or gender and sex identifier, or both. [Amended Health & Saf.C. §103437(b)]

[6:859-865] **Enforcement and damages:** A petitioner, or a parent, guardian or guardian ad litem in the case of a minor, who has been harmed by the disclosure or continuing disclosure of records by a person or private entity who has actual knowledge that the records were confidential may bring a civil action against the individual or entity that caused the harm. [New Health & Saf.C. §103437(h)(1)]

CHAPTER 7

EMPLOYMENT-RELATED INFORMATION PRIVACY

Employee's Right to Employment Records

[7:48.3] **Personal liability:** Plaintiff failed to adequately plead facts that individual defendants were acting as managing agents in consideration of extending liability for alleged violations of Lab.C. §226. [*Marshall v. United Airlines* (CD CA 2026) 2026 WL 588116, *3 (unpub. opn.)]

Employee's Right to Personnel Records

[7:50] **Right to inspect and receive copy:** In addition to employment records, employers must allow every current and former employee, or their representative, to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance, including education and training records, or to any grievance concerning the employee. [Amended Lab.C. §1198.5(a)]

[7:52.3] **"Education or training records":** When maintaining education and training records, the employer must include the employee name, the name of the training provider, the duration and date of training, core competencies of training, and any resulting certifications or qualifications in education and training records. [New Lab.C. §1198.5(a)(2)]

[7:58b] **No personal liability:** Because Lab.C. §1198.5 is not listed as one of the statutes extending liability pursuant to Lab.C. §558.1, a person acting on behalf of an employer is not personally liable for violations of Lab.C. §1198.5. [See Lab.C. §558.1; *Marshall v. United Airlines* (CD CA 2026) 2026 WL 588116, *3 (unpub. opn.)]

Investigative Consumer Reporting Agencies Act (Civ.C. §1786 et seq.)

[7:581a] **Standing:** A plaintiff only needs to plead a statutory violation in order to bring an action under the ICRAA in state court. No further injury needs to be alleged. [*Parsonage v. Wal-Mart Assocs., Inc.* (2026) 118 CA5th 399, 417-420, 341 CR3d 447, 458-460; *Yeh v. Barrington Pac., LLC* (2026) 117 CA5th 1303, 1318-1320, 341 CR3d 311, 322-324; compare *Williams v. DISA Global Solutions, Inc.* (ND CA 2026) 2026 WL 1847740, *2]

CHAPTER 8

CREDIT INFORMATION PRIVACY

Consumer Credit Reporting Agencies Act (CCRAA)

[8:25.1] **"Furnisher":** Collection agency that provided information to TransUnion representative was a furnisher. [See *Golden v. TransUnion, LLC* (CD CA 2025) 2025 WL 3898871, *4]

[8:29.1] **FCRA standard:** Courts apply the same standard that applies to FCRA to determine whether information is inaccurate under Civ.C. §1785.25(a). [*Panchenko v. Comenity Capital Bank* (ND CA 2025) 2025 WL 2374109, *8]

[8:29.2] **Federal preemption of other Civ.C. §1785.25 violations:** Plaintiff's Civ.C. §1785.25(c) claim was likely preempted even though it was pled as a violation of Civ.C. §1785.25(a). [*Ramos v. Navient Corp.* (CD CA 2026) 2026 WL 1537265, *6]

[8:38a] **Inaccuracy:** Information in a credit report is inaccurate if it is "patently incorrect" or "materially misleading." [*Golden v. TransUnion, LLC* (CD CA 2025) 2025 WL 3898871, *4]

[8:300.1] **"Item of information":** Disputed inquiries on plaintiff's credit report were "items of information" pursuant to Civ.C. §1785.3(i). [Civ.C. §1785.3(i); *Guo v. Xactus, LLC* (CD CA 2026) 2026 WL 1770657, *8]

Procedural Considerations

[8:583-583.2] **Stating a claim:** To state a claim for reporting inaccurate credit information, a plaintiff must allege (i) defendant is a "person" under the CCRAA (¶*8:25*); (ii) defendant reported information to a credit reporting agency; (iii) the information was inaccurate; (iv) plaintiff was harmed; and (v) defendant knew or should have known that the information was inaccurate. [*Bennett v. Navy Fed. Credit Union* (SD CA 2025) 2025 WL 3251576, *6]

[8:596.1] **Continuing violations doctrine:** Federal district courts have held that the "continuing violations doctrine" applies to CCRAA claims, and that reporting each disputed item of information constitutes a new CCRAA violation despite plaintiff's prior knowledge of the disputed debt. [*Krejci v. National Credit Systems, Inc.* (CD CA 2025) 2025 WL 2459350, *13]

CHAPTER 9

INSURANCE INFORMATION PRIVACY

Disclosure to Non-Insurance Related Institutions

[9:125] **Disclosure in response to judicial order or process:** Ins.C. §791.13(h) expressly permits disclosure in connection with class discovery. [*Abraham v. United Services Automobile Ass'n* (CD CA 2025) 2025 WL 2995118, *8-9]

CHAPTER 10

EDUCATION/MINOR INFORMATION PRIVACY

Age Appropriate Design Code Act (AADCA)

[10:44-47.49] **Age Appropriate Design Code Act (AADCA, Civ.C. §1798.99.28 et seq.):** The Ninth Circuit affirmed the preliminary injunction as to restrictions on data use (Civ.C. §1798.99.31(b)(1)-(4)) and dark patterns (Civ.C. §1798.99.31(b)(7)) of the Age Appropriate Design Code Act as those provisions were likely to be unconstitutionally vague. [*NetChoice, LLC v. Bonta* (9th Cir. 2026) 170 F4th 744, 770]

Restrictions on School District Use of Student Information (CA Education Code)

[10:220.1] **Exception for disclosure of homeless youth information—eye examination/oral health assessment:** Directory information may be disclosed to facilitate an eye examination by a nonprofit eye examination provider or a free oral health assessment hosted by schools, unless the parent or pupil accorded parental rights has provided written notice that they do not consent. [New Ed.C. §49073(c)(2)]

CHAPTER 11

VEHICLE PRIVACY

Driver's Privacy Protection Act of 1994 (18 USC §2721 et seq.)

[11:31, 11:46] **"Motor vehicle record" defined:** DOJ's request for voting records implicated DPPA since California's statewide voter registration database receives information directly from DMV and includes information such as voter registration along with driver's license numbers. [*U.S. v. Weber* (CD CA 2026) 816 F.Supp.3d 1168, 1195]

[11:49] **In connection with litigation:** Plaintiff's allegations for violation of DPPA were insufficient because DPPA allows for personal information to be disclosed in connection with civil proceedings, including in anticipation of litigation. [*Breaud v. Cantrell* (ED LA 2025) 2025 WL 1825498, *15]

Rental Passenger Vehicle Transactions Law

[11:375] **Geofencing technology:** A rental company may use

information obtained using electronic surveillance technology if the company uses geofence technology under certain conditions. [New Civ.C. §1939.23(a)(3)]

[11:376] **Detecting impaired drivers prohibited:** Civ.C. §1939.23 does not allow for electronic surveillance in rental vehicles for driver intoxication or impairment. [See Civ.C. §1939.23; *Tavares v. Zipcar, Inc.* (2026) 118 CA5th 219, 236, 341 CR3d 239, 251]

Automated License Plate Recognition Information

[11:441] **"ALPR operator":** Allegations that plaintiff's license plate appeared on his ticket at parking garage and plaintiff never consented to collection of license plate number were sufficient to allege owner of parking garage was an ALPR operator. [*Bartholomew v. Parking Concepts, Inc.* (2026) 118 CA5th 438, 446, 341 CR3d 554, 558]

[11:500.1] **Harm:** "Harm" does not mean any violation but can include unauthorized access or use of ALPR information or a breach of security of an ALPR system. [Civ.C. §1798.90.54(a); see *Bartholomew v. Parking Concepts, Inc.* (2026) 118 CA5th 438, 447-451, 341 CR3d 554, 559-562; but see *Mata v. Digital Recognition Network, Inc.* (2026) 121 CA5th 1075, 1091-1094, 1099-1100, 346 CR3d 333, 342-345, 348-349]

CHAPTER 12

MISCELLANEOUS CALIFORNIA PRIVACY LAWS

Public Officials' Home Addresses/Telephone Numbers

[12:236] **"Elected or appointed officials":** Elected or appointed officials include judges of the State Bar Court, active or retired federal judges and defenders, active or retired judges of federally recognized Indian tribes, and children's counsel appointees in family or dependency proceedings. [Amended Gov.C. §7920.500]