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California Regulation of Employee and B2B Data to be Decided Before 2023

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California's Consumer Privacy Act (CCPA) of 2018 has been the most sweeping state-level legislation affecting individuals' personal data privacy. However, the CCPA has had very little effect on personal data concerning an organization's employees, and personal data concerning individual business-to-business contacts. The exemptions for employee and B2B data are set to expire in California on January 1, 2023. This would require employers doing business in California to provide a number of rights to California employees and B2B contacts, including the right to know what information is being collected, the right to delete that information, and the right to know the uses to which such information is put, among others.

However, the California Legislature is currently considering several bills that may change the regulation of employee and B2B personal data completely. AB 2871 would keep employee and B2B data largely unregulated, indefinitely. AB 2891 would keep them largely unregulated until 2026. On the other hand, AB 1651 would create a number of rights in favor of employees, and restrictions on how employers can use employee data, as well as transfer enforcement of these rights to California's employment regulators. The California Chamber of Commerce has already spoken out against AB 1651 as unworkable for many employers. Lastly, SB 1189 would introduce various restrictions on the collection and use of biometric data in California. None of these bills have been passed by either house of the California Legislature.

Unless the Legislature acts quickly in the next four months, many of the CCPA rights that have applied only to consumers, will apply to employees and B2B contacts beginning January 1, 2023. Yet, it may be that California will also impose new restrictions on how businesses handle the personal data for all individuals. The California business community should be watching the California Legislature very carefully for the remainder of this year.