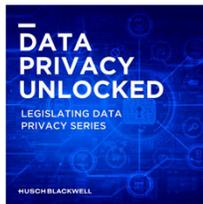


## Data Privacy Unlocked: Legislating Data Privacy Series



### Episode 5 – Data Privacy Unlocked: A Conversation with Representative Fiona McFarland of Florida July 21, 2021

Speaker	Statement
<b>David Stauss</b>	<p>The emergence of broad state consumer privacy legislation has been one of the dominant stories in privacy law since at least June 2018, when California lawmakers passed the California Consumer Privacy Act in response to Alastair Mactaggart’s ballot measure. State lawmakers have jumped into the void created by the absence of federal privacy legislation and tackled this complicated issue. In 2021 alone, lawmakers in 26 states proposed CCPA-like privacy legislation. While the federal government may eventually pass federal privacy legislation, there can be no doubt that state lawmakers are at the forefront of developing the principles that will form the foundation of privacy law in this country. Given the importance of these issues, we decided to launch a limited podcast series, interviewing some of the prominent state lawmakers who have authored these bills. Our guest today is Republican Representative Fiona McFarland from Florida. Representative McFarland is the primary author of House Bill 969, which was the House version of Florida’s proposed privacy bill. Representative McFarland, thank you for joining us here today.</p>
<b>Fiona McFarland</b>	<p>Absolutely. I’m so happy to talk about – get to tell the tales of the tape from my last, I don’t know, year. It was my first session as an elected official and it was a heck of a bill to start with. And I love that there are so many people that have been following and caring about this as much as I did. So, thank you for having me on.</p>
<b>David Stauss</b>	<p>Well, you certainly set the bar high for your first bill that you were going to rock and roll on: a widespread state privacy bill. Why not aim for the</p>



**Speaker****Statement**

stars, right?

Well, I know our listeners are incredibly anxious to hear from you. I think before we jumped on, I was saying, you know – this is the first time you and I have met virtually, but – I spent a good portion of my time watching you in hearings this past year and know that you were incredibly knowledgeable on this issue. And we just can't wait to dive in and hear what you have to say about this.

**Fiona McFarland**

So, here's how I found myself as a wide-eyed freshman in this situation. Consumer data privacy was a priority of our speaker of the House and of our governor. And so, I give them credit for idea generation and for, sort of, the political backing for me to carry this bill. I think they chose me to run it in part because I'm a freshman and I entered the House with, you know, no existing baggage, frankly, but also from my background. So, I went to the Naval Academy and then served in the Navy at sea on ships where we care very much about how our data is transmitted and who has access to it and what happens to it. And then, when I left active duty, I worked as a management consultant with McKinsey during the passage of GDPR. McKinsey serves global clients, and it was really interesting to see the implications of that policy on how a global firm handled their client's data and sort of helping companies through that transition.

So, it was with that backdrop that I walk naively and excitedly onto the House floor and find out that the speaker would like me to carry this bill. I just jumped in, and it was a great project to work on, and we did not pass it. We... Florida has a very short legislative session. We are in session for 60 days, which is a very, very short amount of time to introduce an idea – any idea – but really one that is so big and meaty and technical; not only get people comfortable with it but debate the finer points of it and then pass it.

So, it'll be coming back next session. Anyone who makes their money off of consumer data privacy, keep betting on Florida. We've got another session of it, which begins in January, and I'm excited to work on the bill again.

**David Stauss**

So, let me just... There's so much to unpack on what you just said. Let me ask you where you started there. Was... You said it was a priority for the speaker and also for Governor DeSantis. Why (if you know)?

**Fiona McFarland**

I think that it's – and we thought of some polling with constituents – but I think that everyone feels slightly uncomfortable with the fact that they have no idea what happens to their personal information, you know, in the ether, right? Like, we all know, we all appreciate the convenience that tech has created. We all are aware that this digital version of ourselves exists



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somewhere else. And we're all slightly uncomfortable about it, right? Like, every single person has had that creepy experience of a targeted ad based off a conversation that they had. Or, you know, a coupon that arrives at just the right time – and a perfectly delivered coupon. Or, even, you know, getting the “happy birthday” from a vendor that you haven't visited in 20 years from, like, where you went to college or something.

And so, I think that, you know, the feeling was that that balance of power has shifted too much toward Big Tech. And, of course, politically this last session and last cycle it was quite popular to go after evil Big Tech. And, I think, between the two of those it was, the time was right. And we have a speaker who gets this stuff.

**David Stauss**

So, that is just absolutely fascinating to me. We talked about this a little bit before we started recording is, you know... You write a bill very similar to the CCPA, the CPRA. California is a Democratic state and, you know, Washington state which, you know, Reuven Carlyle has been running a bill there, a Democratic state. You guys are a Republican legislature and governor. But this seemed – of all the things we disagree about in the country – this seemed to be like one place where, you know, Republicans and Democrats kind of blend together on these issues. Did you see that? Did you sense that?

**Fiona McFarland**

Absolutely. I mean, I had a number of co-sponsors that jumped onto my bill who are Democrats and even some of our most progressive members of the House jumped on as co-sponsors. And then, you know, I also had my Republican credentials checked by a couple people – like, you know, “Fiona, are you really running an anti-business bill?” But here's why we landed where we did. Yes, one is very pro-business and the tenets of the traditional Republican party are as well – less regulation. But when it comes to the matter of personal privacy, the rights of the individual win. And that's why we, you know, boldly stepped into an aggressive CCPA-similar bill.

Now, we've got some, you know, we have some major differences from California. For example, California created, you know, an entire agency to handle enforcement and auditing and that's just, that's not the Floridian. That's not something that we would want to do.

You know, David, maybe I'll take a step back and just say for those, the uninitiated, what the tenets are that we had in the bill, right?

**David Stauss**

Sure.

**Fiona McFarland**

So, we had a right to know, a right to know what information companies have about you, a right to delete or correct it and then opt out of your data



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being sold or shared with a third party. Now, we jumped back and forth between definitions. We started with the definition of a business. We defined a service provider. And then we defined a third party. Halfway through session we switched to the data controller/data processor language, which I actually was really happy that we did. And the reason why is because the terms “business,” “service provider” and “third party” are so ubiquitous in business that people were really struggling with understanding what that meant. As soon as we threw some new terminology into the mix, like “controller” and “processor,” you know, folks actually had to read the definitions to know where they fell. And that was a little more helpful in companies understanding what the implications of this bill would be for them.

**David Stauss**

Yeah, let me ask you about that because, I mean, your bill looks, from just, you know, just glancing through it, it looked like a really start of CCPA, CPRA type – you know, the California model, right? And then, to your point, when you look at this you do see, you know, “controller”’s in here and “processor”’s in here, borrowing from the GDPR and, you know, the Washington Privacy Act model. So, I guess the question being – and I have a question here...

**Fiona McFarland**

Okay.

**David Stauss**

The question being is, you know, is it right that you started with California as sort of, like, your baseline? And, if so, like, why did you choose California to start with as opposed to maybe, like, a Washington Privacy Act? And what was the thought process in the initial draft of the bill? And then, you already mentioned how it changed, but I guess, what was the initial process there?

**Fiona McFarland**

Yeah, I mean, you know, credit where credit’s due: Idea inception, a lot of inspiration came from California. We looked at Virginia. We looked at Illinois on some of their biometric protections. We really liked that. We’ve got a... You know, our bill has a whole biometrics piece. And the reason why was because we want a strong bill. And ultimately, you know – I think we’ll get into this throughout the conversation, but – it’s ultimately why I killed the bill. It’s because it was really important for us to have a strong bill. And when I say strong, I mean enforcement – you know, a bill that’ll force companies to actually comply and pay attention. For us, that was the private right of action. For us, that was also putting restrictions over not just selling of data but truly sharing it or, you know, providing access to. And that was something that was really important to us. We would rather pass no bill than a bill with no teeth.

**David Stauss**

Yeah, that’s... I’m glad you raise those. I was going to ask you about it.



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	<p>But, I guess, first to set the stage, right, for listeners, although I think they're probably familiar with it. But, the Florida bill obviously died, but, like, in a blaze of glory almost, right? Where, like, everyone kept on passing it and then, like...</p>
<b>Fiona McFarland</b>	<p>I did feel like Braveheart in the final week of session, you know? If I could have worn face paint onto the House floor and kept with decorum I might have.</p>
<b>David Stauss</b>	<p>So, I mean, give us the give-and-take because I think, you know, people like myself, we saw this from the outside. We, like, sat there thinking, Oh my god, Florida's about to go! And then, nothing, right? I mean, it's sort of like, tail between our legs, we go back to our office and are like, "Okay, who's next on the map?" type stuff. What happened? I mean, what happened there?</p>
<b>Fiona McFarland</b>	<p>We... So, on the House side, we had a private right of action from <b>Jumpstreet</b>. And we had it for a couple different things. We had the CCPA private right of action around a cyber security breach. So, data that is stored unencrypted or non-redacted is accessed through, you know, lacked cyber security practices, basically, then the consumer has a private right of action against that company. Secondly, if your data – if you ask your data to be corrected or deleted and the company blows you off. And then, thirdly, if you opt out of sharing or selling, again the company disregards. We have sort of, like, three private right of actions there.</p> <p>On the Senate side, they never had a private right of action. They – or, I think, actually, that might not be true. I think they perhaps did on their very first bill, but they amended it very quickly and rolled that back to attorney general enforcement and some fines and fees in a way that we thought, frankly, on the House side, was too, wasn't strong enough. And so, as lobbyists and interest groups sort of coalesced around our bills... Of course, no company wants a private right of action regardless of what else is in the bill. But they really started pointing to Virginia's bill or even what was happening in Washington and, you know, all of the conversations I had were, "Fiona, please make your bill either more like the Senate version" – which, you know, still has significant flaws. "Or, if you can't do that, just give us Virginia's bill, or give us Washington's bill" – which most companies were okay with.</p>
<b>David Stauss</b>	<p>Which was, in and of itself, just a whole different...</p>
<b>Fiona McFarland</b>	<p>That's "Podcast Part 2," perhaps.</p>
<b>David Stauss</b>	<p>Why were the companies okay with Virginia? That's a fascinating topic.</p>



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	But go ahead, though. Answer the first question, though.
<b>Fiona McFarland</b>	We have a different makeup in the House. So, there's 120 members in the House. We're just shy of a super majority with 78 Republicans. We've got a good amount of attorneys and our speaker of the House is an attorney. And, you know, I don't personally think this is why, but a lot of the commentary on the outside has been, you know... House members are very quick to add a private right of action for enforcement on legislation, whereas our Senate – there's 40 members over there. I think, as goes with the stereotype of the other chamber, they're older. They're a little bit more small-c conservative as in, you know, not as willing to do big things legislatively. Just listing stereotypes here. And that might be what played out.
<b>David Stauss</b>	Let me ask you about... I mean, because clearly from your remarks, right, that the private right of action was important to you, to have a bill that's enforceable. Tease that out for us, though. Why, in your mind, for good or for not, why in your mind is AG enforcement not enough in these bills?
<b>Fiona McFarland</b>	I think when I think to how that plays out, how that would play out operationally, it is a big lift to bring a suit against, I mean, name any company, right? Like, obviously Facebook, Google: When we talk about consumer data privacy, they're the easy villains. But really, like any company that transacts in data on a large scale... You know, the bigger companies all have a strong general counsel. They all have a strong data officer, data privacy officer. And then the other side of the courtroom, you know, we have a fantastic attorney general. We have a fantastic attorney general. But I just, I wouldn't want to assign her a responsibility that she didn't also have the skill to execute and perform.
<b>David Stauss</b>	That's fascinating. Do you think that this... And to be blunt, right, I think it failed on a private right of action, right? I mean, to put a fine point on it, if you guys, if you would have agreed to not have it, the bill would have passed and the other side would have agreed to have it, or then it would have passed. Is that fair or am I making it too simplistic?
<b>Fiona McFarland</b>	That would have been a far easier path. You know, without showing too much leg for next session here, you know, we were able to come to a compromise in literally the final hours of session on the enforcement. But there was 35 other pages to that bill where the Senate version and the House version still had significant differences. You know, like, our definitions didn't match up. We hadn't really reached agreement on even the threshold, the size of company that this bill would apply to. And what I realized is that the enforcement section on that private right of action had



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	<p>become the shiny object in the room.</p> <p>And no one else, none of the other stakeholders, could see anything other than that, right? So, we still had differences over what the word “share” meant, which to me is foundational to what the, you know, the foundation of the bill, frankly. And, you know, I had all the shares. And we had this moment where some of our financial services companies, we had an exception in there for information that’s covered under the Gramm-Leach-Bliley Act. So, any, you know, any financial or banking information. And we had a company that asked us to change – it was something as small as from “four” to “two” – the word “four” to the word “two” under our Gramm-Leach-Bliley Act filing exemptions. And we were so pushed for time that, you know, I saw down with our staff and I was, like, “This seems innocuous. Let’s just do it.”</p> <p>But our insurance expert was, like, “I think there’s broader implications here. Like, I probably need, you know, I think I need 12 more hours to figure out what that simple semantics change would mean.” But I... But it’s, I don’t think it’s a straightforward change and, and to me that was a huge wakeup call of, like, if we’re going to pass such a big bill that affects, I mean, so, so many people and so many companies, we have the responsibility to make sure we understand what changing the word “four” to “two” means.</p>
<b>David Stauss</b>	Yeah, I don’t want to lose track of what you said in the beginning because you sort of were, like... I’m not going to push you on it, but I will kind of follow up on it, which is you said that you were able to reach a compromise on the enforcement provision.
<b>Fiona McFarland</b>	We were! I mean, you know, a political compromise and that everyone was equally disgruntled over it.
<b>David Stauss</b>	Are you – you can say no – are you willing to share what that compromise was? And feel free to say no.
<b>Fiona McFarland</b>	I think I’ll leave that as my, like, season, my season finale, you know, so folks will actually tune in next year.
<b>David Stauss</b>	That’s fair. That’s fair. But it is fascinating you were able to reach a compromise on that issue but notwithstanding that there were so many more issues that just needed to be fleshed out with this bill.
<b>Fiona McFarland</b>	Yep. Yep.
<b>David Stauss</b>	Do you think... I mean, what do you... You know, you say you’re coming back next year. I don’t think anybody will be surprised to hear that. Are



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	you going to work on it over the summer? I mean, what does that process look like?
<b>Fiona McFarland</b>	Yeah, I'm absolutely working on it over the summer. You know, I've been talking to companies, been talking to stakeholders, and look forward to seeing how some of the other states, how their bills land. And, yeah, I'm certainly using the off time.
<b>David Stauss</b>	And, you know, we talk about stakeholders, right? What are... I think people are kind of fascinated to hear – not having to name names – but sort of just fascinated to hear the type of entities that are knocking on your door and saying, “Hey, I'd like to talk to you about this or about that.” I mean, I guess, it's like, is it, a large number of entities that are invested in this? Are we talking, you know, five? Are we talking 30? And then, is it tech companies? Is it privacy advocates? I mean, what does it look like? What does your day look like in the last six months of trying to get this done?
<b>Fiona McFarland</b>	<p>So, when I last checked there were 350 lobbyists who had registered to lobby on this bill, specifically. So, that's a lot. And I will admit again – you know, naïve freshman – when I accepted this challenge, I knew that it was a big bill, right? Like, I'd seen GDPR. I knew the implications. I knew this was a big, big project. I didn't know how big. It impacted gas stations. It impacted grocers. Certainly, you know, retail pharmacies. And even, you know, I heard quite a bit from the restaurant and lodging associations. It even impacted some of our small-business restaurant owners, right? Anyone who has, like, a loyalty program, or anyone who does any sort of analysis to see customer behavior patterns and then tries to glean that for marketing insights.</p> <p>At some point, you know, there was... Our first iteration of the bill or, sort of how it grew and changed and amended over time... I think every company that transacts in data in the state of Florida at one point did a, you know, a little internal look to see if the bill applied to them and so, so many did.</p>
<b>David Stauss</b>	But how do you manage 350 lobbyists? That seems, like, incomprehensible to me, right? I couldn't manage, like, three people in a room trying to negotiate privacy legislation, notwithstanding 350.
<b>Fiona McFarland</b>	Yeah, I mean, you know, thankfully we didn't, like, all get together at once. Or, maybe that would have been more productive – I don't know. The great thing about Tallahassee... You know, we actually have phenomenal lobbyists in Tallahassee, and I say that knowing full well the word “lobbyist” is like an evil moniker sometimes. But we have great lobbyists who are true professionals and they've been in the business for a



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	<p>long time and they understood that it was more effective for them to sort of coalesce around issue areas as they approached me and I really appreciate that.</p> <p>So, instead of talking to the 30 lobbyists who were representing financial service companies or banks, they sort of appointed a spokesman and that's who I dealt with. And then, the same thing for, like, auto manufacturers and, you know, data brokers. They sort of self-organized realizing that there was going to be a lot of noise on this bill and that that would be the most effective way for them to cut through it.</p>
<b>David Stauss</b>	<p>That's interesting. And so then, what does your team look like, then? I mean, you mentioned a few people you had in a room is, you know, your insurance guy. I mean, you mentioned that, but who's like, what's your team comprised of on the other end?</p>
<b>Fiona McFarland</b>	<p>My personal staff is a mighty team of one. I have a legislative, I have one legislative assistant. But then, the House has, you know, what in DC would be professional staff. So, our committee – we have committee staff who I cannot give enough credit to on this bill. We have, between the Commerce Committee and the Insurance and Banking Committee... I mean, those guys... They put just, they put more hours into this bill, I think, than I did, if not the same. They were phenomenal.</p>
<b>David Stauss</b>	<p>So, you mentioned before – and we obviously talked about the private right of actions being a big ticket item for you guys to try to work through it. Were there other ones that were just extremely... And you mentioned definitions as well...</p> <p>You know, control and policy. Were there other aspects of your bill that were just really heavily negotiated?</p>
<b>Fiona McFarland</b>	<p>I really do. I mean, I gave the financial services example, but I really... We've spent a ton of time on the, just one paragraph for our exception for the Gramm-Leach-Bliley Act regulated information. That was really, really huge.</p>
<b>David Stauss</b>	<p>Yeah, and you... I mean, I remember – I think we talked about it before we started – but I remember watching you in one of the first hearings, maybe the first hearing on this one. And you were adamant that you were not going to have as many exemptions that were in, like, the Virginia bill. But that it just wasn't going to be, like, Florida was going to do it. Did that come to pass? Did you have to give on that aspect? I mean, where did that end up?</p>
<b>Fiona McFarland</b>	<p>No, I think that... Thank you for reminding me that I said that because I'm</p>



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	glad I did. We hold strong to that. There is... I think every industry asked for one.
<b>David Stauss</b>	If I was a lobbyist, I would just ask.
<b>Fiona McFarland</b>	Oh, totally!
<b>David Stauss</b>	It's an exemption, right?
<b>Fiona McFarland</b>	Oh, no, the answer is always no until you ask, right?
<b>David Stauss</b>	Right.
<b>Fiona McFarland</b>	I mean, I think there was even companies that wanted a granular exemption down to the level of, like, any company that has blue and gold in their logo and deals with cars.
<b>David Stauss</b>	Ends with "r." Has a "w" in it, right?
<b>Fiona McFarland</b>	This bill shall not apply to... But we held strong on it, right, because I think that there's a very, you know... And even going back to the semantics change of four to two in the GLBA exemption – that's a great example. Like, I think as soon as you start building out your list of exemptions, then your bill – you just write better policy.
<b>David Stauss</b>	I remember – sort of related to this, I think, is – how your bill defined its applicability, right? And so, you know, it's an interesting approach. It's similar to CCPA, CPRA but different. So, you would have to be obviously doing business in Florida, collecting personal information of Florida residents. Those things always make sense. Not controversial, obviously. Like, you should probably be doing business in Florida.
<b>Fiona McFarland</b>	Yep. Yep.
<b>David Stauss</b>	But then, you had, like, three thresholds. You had to meet two of the three: \$50 million in annual gross revenues, collecting or processing, you know, 50,000 state residents or what I call, like, the data broker, right? Like, your business is data brokering, right?
<b>Fiona McFarland</b>	Right, okay.
<b>David Stauss</b>	So, you had to do two of the three. And if you would look at, like, CCPA it would be \$25 million and, you know, 50, it'll go up to 100 with the CPRA and a data broker. But I guess, point being is, like, your threshold is a little bit higher for applicability. And I gather that was intentional.
<b>Fiona McFarland</b>	It was intentional. I mean, we wanted to be responsive to small business,



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frankly. We wanted to be responsive to small business particularly in the wake of COVID, when small business got hit more than anyone else, but still be a good bill, right? And so, I'll address a couple of those.

I think the revenue marker – the, you know, annual gross revenue – I think that is descriptive, perhaps, but there are so many, I mean, \$25 million in annual revenue is not a lot. You know, 50, 50, and 50 were our thresholds: \$50 million for revenue. We raised the threshold. I'll admit it: It was a compromise. It was a compromise we made to protect the small business. But I think – the date is not top of mind anymore – but I think when we looked at the list of companies just, you know, broad brush strokes of the number of companies that were \$25 million versus \$50 million grossing, it was not, it was not a significant difference.

**David Stauss**

That's interesting. You know, why don't you... You mentioned California before. You told me... Offline I was asking you who you spoke to, right? Whether you spoke to any other, you know, people in this stratosphere and you said you chatted with Alastair Mactaggart, which is, I suppose, not a surprise, but it's interesting. So, I mean, talk us through that.

**Fiona McFarland**

Um, yeah. Mr. Mactaggart was great. I heard him on a podcast and I sent, and I sent it to my LA even before the podcast was finished. And I was, like, "We need to find this guy." And at first it was just, he was able to present the bill so succinctly. It's a big, big bill. It's a 50-page bill and a huge part of my task was to walk other lawmakers through it and Alastair did it so artfully. But as we worked together, you know, he shared tremendous background on some of the legal discussions that they had and some of the suits that were brought in California that really helped us. And it was funny, you know, we went... He was even so kind as to go line by line through the bill with us and sort of circled some parts and was like, "We had a huge fight in California. You know, we landed. This is where we landed and here's why. If I could do it over again, this is what I would do."

So, that was really, really helpful and, you know, Alastair has just been in the trenches on this stuff for so, so long that I think the bill really benefited by his experience and his wisdom on it.

**David Stauss**

Well, it's a fascinating story, right, because they get the CCPA passed and then they had to go through this whole legislative process to amend it like you were just describing. Now, the whole time he's working on the California Privacy Rights Act ballot measure, right? So, this is a man who knows his privacy law for sure. It's kind of fascinating.

**Fiona McFarland**

Yeah, and it's not even what he does, right? It's not even. He's like... Real



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	estate, I think, is...
<b>David Stauss</b>	Real estate. Now he's a privacy guy. He's sort of the privacy guy. So, let me ask you this. We kind of mentioned Virginia before, but obviously, you know, you've got California and that's its own thing. You do have the Virginia that passes in March and then fast forward to... We're waiting for the governor of Colorado to sign the Colorado Privacy Rights Act. Colorado and Virginia are very different bills than yours, right? And I think you'd probably argue your bill is much stronger than Colorado and Virginia. But sort of setting that aside, does seeing other states pass legislation, does that encourage you? Does that motivate you to keep on going? Would you rather it was stronger? I mean, how does that impact you, if at all?
<b>Fiona McFarland</b>	It... Okay, there's two separate reactions I have to that. The first is that I love that we're having this conversation on a national level. We are having it. We are having 50 different conversations, I think. But it really, it's reassuring and sort of a good sense check for me that we are focusing on things that are right for the moment. You know, I'm still a conservative Republican, like, I still really have a hard time with telling a business how to business. And I fully understand how difficult it is for a national or even regional company to do business in the U.S. and have to deal with a patchwork of different regulations. It would be so much better if the federal government did this countrywide. It would be so much better. I have no faith in our – sorry to anyone who's working at the federal level – I have a low level of confidence in the federal government being able to pass something out of DC in a meaningful way anytime soon.
<b>David Stauss</b>	Yeah, I've asked everybody who I've talked to on the podcast, sort of like, you know, do you think this is your role? And they've had the same reaction you've had which is, like, well, somebody's got to do it, right? And the federal government won't do it. We've got to address a problem. But I sense everybody's goal as well is federal privacy legislation.
<b>Fiona McFarland</b>	Yeah. And I believe if there are enough... If we do build a patchwork of regulation across the country, that will ratchet up the pressure on our federal lawmakers to do something about it.
<b>David Stauss</b>	So, what's your... You know, if you were a betting person, what, how many states do you think need to jump in before it becomes a disaster enough that the federal government actually needs to act on something?
<b>Fiona McFarland</b>	I think that because of the nature of most of these companies that transact in data at, you know, a meaningful scale, I think it's a low number. I think, you know, call it 10 states.



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<b>David Stauss</b>	Well, we've still got a while to go.
<b>Fiona McFarland</b>	Yeah.
<b>David Stauss</b>	But, you know, it sounds like you guys are really well-positioned in Florida to make a run at it this next year to pick up where you left off, so to speak.
<b>Fiona McFarland</b>	I remain confident. I was confident throughout the session and, you know, even though the bill didn't pass, I don't see that as a failure by any means. Of course, I would have wanted to notch a win, but we started a really, really important conversation in the halls of Florida legislature that we will continue next year and land in a great place.
<b>David Stauss</b>	<p>Well, what's also kind of fascinating, too, right, is even if you don't pass something, there is no doubt that by getting as far as you did, you progressed the discussion across the country, right? And so, we had that... When we talked with Representative Kloba in Washington, that was a big point for her. Each year the Washington Privacy Act fails, but it gets better and progresses the discussion even if it doesn't pass, right? And so, it's kind of fascinating. The more times you guys are working on things, the more noise there is, it gets better and better, I think, long term.</p> <p>I want to go back to – because that wasn't a question; that was sort of an observation, right? We're not here to talk about my thoughts. So, I want to go back and ask you about something you said at the beginning, which is... It relates to enforcement about, like, the data protection authority. So, California stands up a data protection authority, the California Privacy Protection Agency. And you said – I think you said – something to the effect of, you know, "That's not Florida. We want to do it without that approach." Is that something you've contemplated? Is that... What is the reluctance to go that route, so to speak?</p>
<b>Fiona McFarland</b>	I think, you know, again as a conservative House, Senate and governor's mansion, we are very reticent to grow the size of government. Again – referencing back to our sort of pro-business free market principles here – to me, that's kind of why the private right of action makes sense. If the consumer's been wronged, let's arm them with the ability to, you know, speak in a court of law, speak about their rights and fight for the rights that are important to them rather than having to have the government do it for them. And, you know, that's a very foundational perspective, I think. Before we grow the size of government we will need to look at it, you know, every which way and be assured that that's the best way to do it.
<b>David Stauss</b>	I wanted to ask you – and a slight change of topic... When I was asking you about people who are at your doorstep, you know, wanting to



Speaker	Statement
	negotiate and mold the bill... I sense, you know, tech companies are there and businesses were there. Were there privacy advocates like the ACLU or any of those types of entities who are also working on the other side of, you know, the tech companies?
<b>Fiona McFarland</b>	Yeah, that list was much smaller. But, I did have a number of proponents, folks that were pushing for me to make the bill stronger, frankly, right? We had an opt-out provision, opt out of your data being sold or shared. They wanted it to – a number of groups pushed for it to – you know, opt in, for your information being sold or shared. Data portability is another really interesting idea that I am exploring now and plan to explore in the next session. So, yeah, there were proponents of the bill. It was a smaller number than 350, though.
<b>David Stauss</b>	Yeah, that’s interesting. I guess, you know, we mentioned Colorado and Virginia before. They have a limited opt in, right, for, like, sensitive data or something like that. So, that was a big push for privacy advocates. They felt like, again, they felt like they progressed the discussion by getting that. Do you think, I mean, that those types of provisions... Do you think any of those will end up... There’s also a user-enabled privacy control aspect of Colorado and, like, a sun setting on the right to cure and all these types of things. Do you think there’s a concept you will look to and maybe consider next year?
<b>Fiona McFarland</b>	Yeah, no. Nothing is off the table.
<b>David Stauss</b>	And so, when does the Florida legislative session start back up again?
<b>Fiona McFarland</b>	We begin committee hearing weeks in late September, and we’ll have committee meetings, you know, throughout the fall and winter. And then session officially begins in January.
<b>David Stauss</b>	And so, is that when we should expect to see the bill proposed and next year’s bill, The 2022 Florida Privacy Act?
<b>Fiona McFarland</b>	Yep, coming to theaters near you in January 2022.
<b>David Stauss</b>	We will no doubt be covering it. Well, I’ve kept you for far too long. Representative, I want to thank you so much for joining us today and talking us through what was an absolutely fascinating legislative process in Florida this year.
<b>Fiona McFarland</b>	Thank you. Thank you for having me. I mean, you know, not only have you asked a politician to talk about themselves, which is always an easy thing to do, but it’s a really compelling topic that I’m so pleased that you guys are following, that your listeners are following and care about. And,



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you know, thanks for being there for me.

