

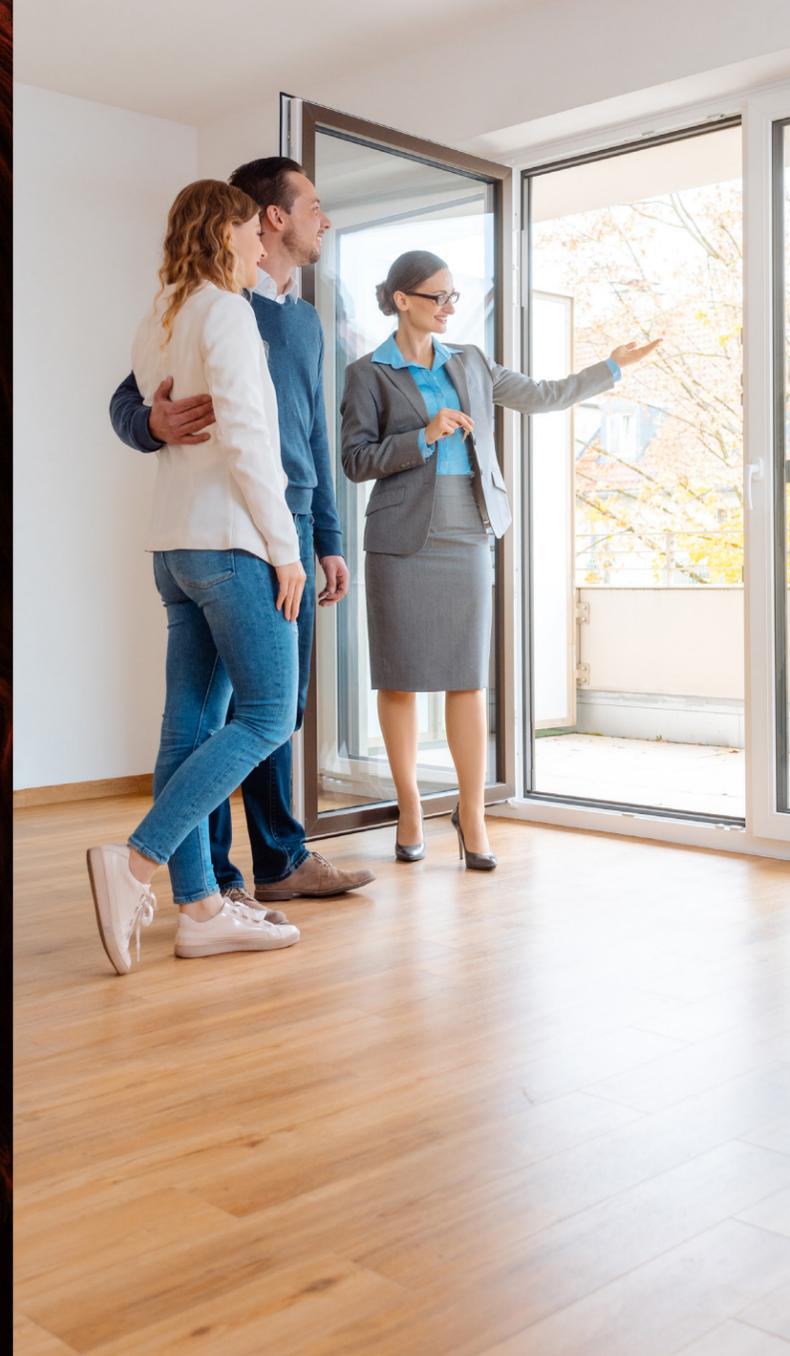
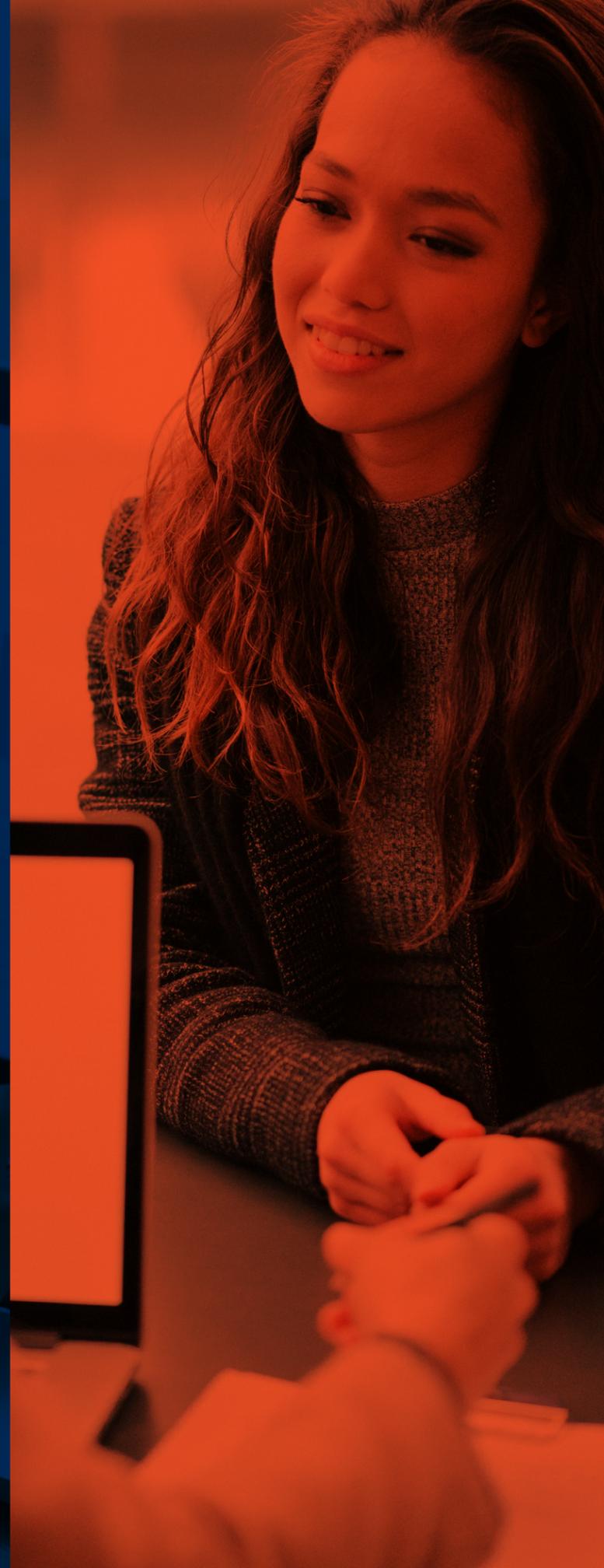
Privacy Basics

Investigative Consumer Reporting Agencies Act Basics



Privacy Rights
Clearinghouse

The **Investigative Consumer Reporting Agencies Act (ICRAA)** is a California law that requires *investigative consumer reporting agencies (ICRAs)* (Cal. Civ. Code § 1786 - 1786.60) to institute reasonable procedures to ensure they provide and use consumer information in a way that is fair, equitable and respects consumers' right to privacy, particularly with regard to reports furnished for employment, insurance and landlord-tenant purposes.



Sections to Follow

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- Individuals' Rights
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A Brief History

1970

Congress Passed the Fair Credit Reporting Act

The Fair Credit Reporting Act (FCRA) was the first federal law passed by Congress to regulate the use of personal information by businesses. It was enacted in response to the expansion of the credit reporting industry.

1975

The California Legislature Passed the Investigative Consumer Reporting Agencies Act

The ICRAA provides California consumers additional rights with respect to investigative consumer reports containing information on

- character
- reputation
- personal characteristics
- mode of living

* Full text available at Cal. Civ. Code §§ 1786-1786.60

Who Must Comply

Investigative Consumer Reporting Agencies

ICRAs

- collect
- assemble
- evaluating
- compile
- report
- transmit
- transfer
- communicate

information concerning consumers for the purposes of furnishing investigative consumer reports to third parties.

* Not considered ICRAs: government agencies that maintain records for traffic safety, law enforcement or licensing purposes; and licensed insurance agents, insurance brokers, solicitors or life insurance agents.

* The ICRAA is broader in scope than the federal FCRA. The ICRAA covers third-party employment screeners and employers who conduct background checks themselves (the FCRA does not).

Anyone Who Uses Investigative Consumer Reports

The ICRAA places several requirements on users of investigative consumer reports. Users can include, for example, employers, landlords or insurance providers.



Information Covered

Investigative Consumer Reports

An *investigative consumer report* (Cal. Civ. Code § 1786 - 1786.60) is a consumer report in which information is obtained through any means on a consumer's

- character
- general reputation
- personal characteristics
- mode of living

* Background checks are considered investigative consumer reports if the employer learns information related to any of the above.

* A consumer report or other compilation of information that is limited to specific factual information relating to a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency is not considered an investigative consumer report.

Individuals' Rights

The ICRAA gives individuals (in addition to their FCRA rights) the right to

- receive notice before an investigative report is prepared
- receive the contact information of the ICRA being used to prepare the investigative report
- request and receive a copy of the investigative report
- have trained personnel explain any information included in their file
- know who has received their investigative report in the last three years upon their request
- dispute information that is incomplete or inaccurate by communicating the dispute directly to the ICRA (information found to be inaccurate, incomplete or unverifiable cannot be reinserted into the file unless its furnisher verifies it is complete and accurate)

When employers use outside screening companies to prepare investigative consumer reports, individuals have the right to

- receive more extensive notice (than the FCRA notice) including
 - ▶ the purpose of the report
 - ▶ the name, address and telephone number of the screening company
 - ▶ a summary of the right to see and copy reports about them
 - ▶ a box to check if the individual wants a copy of the report
- receive notice and give permission any time an investigative consumer report is sought for employment purposes (other than for suspicion of wrongdoing or misconduct)

When employers conduct investigative consumer reports in-house, individuals have the right to

- receive notice (unless the employer suspects wrongdoing or misconduct)
- request a copy of public records obtained in the investigation

* Individuals will not receive the detailed notice they must receive if an employer hires an outside screening company, and may not be asked to give permission for the investigation.

When certain insurance providers conduct investigative consumer reports, individuals have the right to receive notice and provide authorization (signed) before the provider obtains an investigative consumer report from an ICRA.

Enforcement

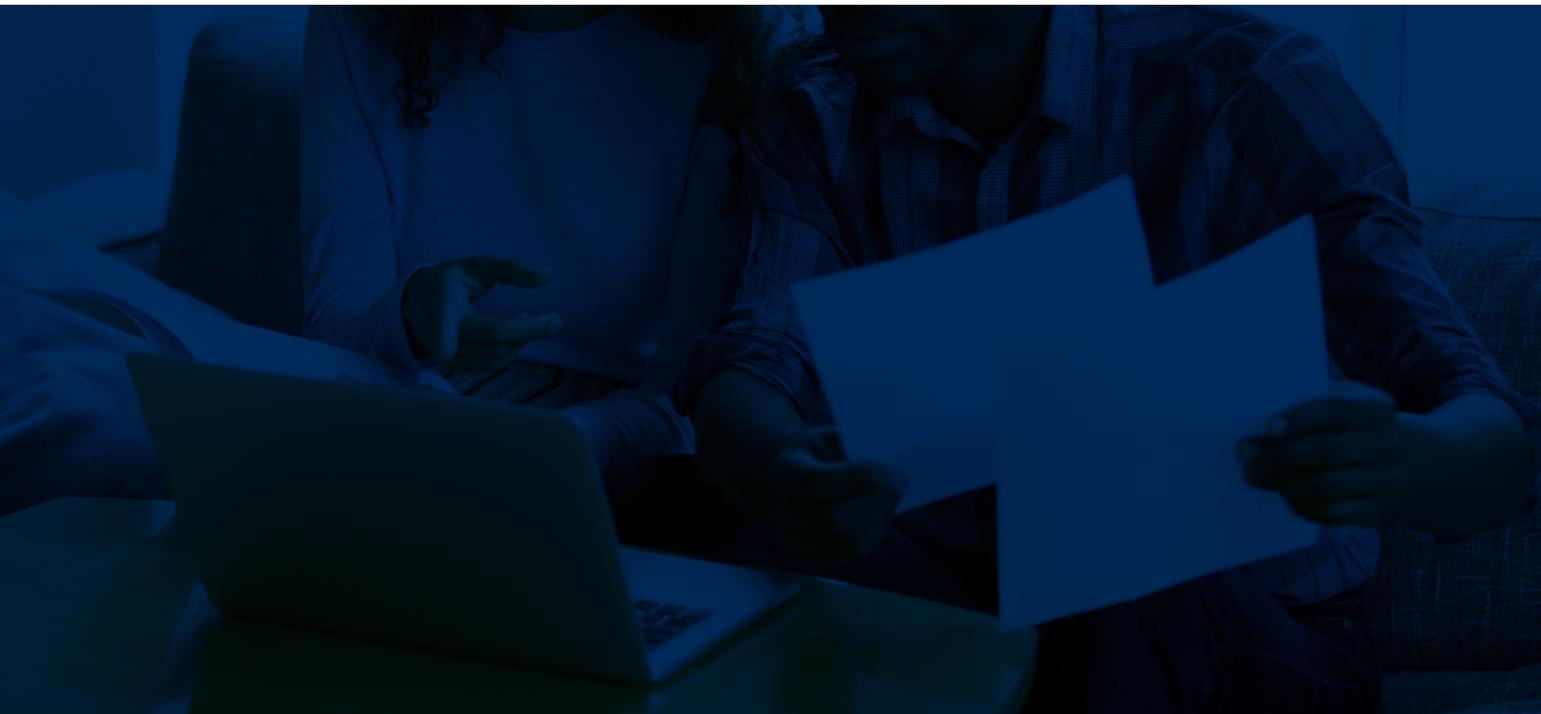
Individuals have a private right of action under the ICRAA. Violations can result in penalties for the ICRA that issued the report and for the user of the report.

ICRAs will be liable for

1. any actual damages sustained by the consumer as a result of the unauthorized access
2. in the case of any successful action, the costs of the action together with reasonable attorney's fees (as determined by the court)

Except in cases of class action lawsuits, consumers can recover at least \$10,000 or their actual damages depending on which is greater, in addition to any reasonable attorney's fees. Consumers may also recover punitive damages if the court finds the violation to be grossly negligent or willful. ICRAs and users will not be liable if the violation results in a more favorable investigative consumer report than if there had not been a violation. Consumers can file actions under the ICRAA for up to two years from the time the consumer identified the violation.

* The ICRAA does not limit or in any way affect a consumer's right to pursue a defamation or an invasion of privacy action against an ICRA, a user or someone who furnishes information for the report. However, if a consumer files an action against an ICRA or user under the FCRA on the basis of the same conduct, a judgment against the ICRA or user under the FCRA prohibits action based on the same conduct under the ICRAA.





**Millions
Impacted by
Data Breaches**

**Our
Reality**



No comprehensive
Right to Privacy



Little Trust
in those who **collect, use**
and **share** our data



Lack of Power
to protect our privacy

Protecting Privacy for All

Our
Mission

Since 1992, Privacy Rights Clearinghouse has been **protecting privacy for all** by **empowering individuals** and **advocating for positive change**.

We focus exclusively on consumer privacy rights and issues, and strive to provide clarity on complex topics by **publishing extensive educational materials** and directly **answering people's questions**. We are also **amplifying the public's voice** through their individual stories—often underrepresented in policy discussions—in our work **championing strong privacy protections**.

We hope that this resource has been useful. If you would like to support the development and creation of further educational materials, please consider donating to our organization.

[privacyrights.org/donate](https://www.privacyrights.org/donate)

The image is a collage of three photographs showing business professionals in meeting settings. The top photo shows two women sitting at a table, one pointing at a document. The middle photo shows a man and a woman in a meeting, with the man looking at a laptop. The bottom photo shows a man's hands on a laptop keyboard. The entire collage is overlaid with a large, curved orange shape and a blue shape that resembles a stylized 'C' or a swoosh.

Privacy Rights Clearinghouse

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