

SENATE BILL 571

I3, S1
SB 844/23 – FIN

4r1822
CF HB 603

By: **Senators Kramer, Hester, and West**
Introduced and read first time: January 25, 2024
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Consumer Protection – Online Products and Services – Data of Children**
3 **(Maryland Kids Code)**

4 FOR the purpose of requiring a covered entity that offers an online product reasonably
5 likely to be accessed by children to complete a certain data protection impact
6 assessment under certain circumstances; requiring certain privacy protections for
7 certain online products; prohibiting certain data collection and sharing practices;
8 and generally relating to the protection of online privacy of children.

9 BY repealing and reenacting, with amendments,
10 Article – Commercial Law
11 Section 13–301(14)(xl)
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2023 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article – Commercial Law
16 Section 13–301(14)(xli)
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2023 Supplement)

19 BY adding to
20 Article – Commercial Law
21 Section 13–301(14)(xlii); and 14–4601 through 14–4612 to be under the new subtitle
22 “Subtitle 46. Maryland Age–Appropriate Design Code Act”
23 Annotated Code of Maryland
24 (2013 Replacement Volume and 2023 Supplement)

25 Preamble

26 WHEREAS, The United Nations Convention on the Rights of the Child recognizes

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 that children need special safeguards and care in all aspects of their lives, specifying how
2 children’s rights apply in the digital environment in General Comment No. 25; and

3 WHEREAS, As children spend more of their time interacting with the online world,
4 the impact of the design of online products on their well-being has become a focus of
5 significant concern; and

6 WHEREAS, There is widespread agreement at the international level, and
7 bipartisan agreement in the United States, that more needs to be done to create a safer
8 online space for children to learn, explore, and play; and

9 WHEREAS, Lawmakers around the globe have taken steps to enhance privacy
10 protections for children based on the understanding that, in relation to data protection,
11 greater privacy necessarily means greater security and well-being; and

12 WHEREAS, Children should be afforded protections not only by online products and
13 services specifically directed at them, but by all online products they are likely to access,
14 and thus covered entities should take into account the unique needs of different age ranges,
15 including the following developmental stages: 0 to 5 years of age, or “preliterate and early
16 literacy”; 6 to 9 years of age, or “core primary school years”; 10 to 12 years of age, or
17 “transition years”; 13 to 15 years of age, or “early teens”; and 16 to 17 years of age, or
18 “approaching adulthood”; and

19 WHEREAS, While it is clear that the same data protection regime may not be
20 appropriate for children of all ages, children of all ages should nonetheless be afforded
21 privacy and protection, and online products should adopt data protection regimes
22 appropriate for children of the ages likely to access those products; and

23 WHEREAS, According to the Pew Research Center, in 2022, 97% of American
24 teenagers aged 13–17 used the Internet every day, with 46% responding they used the
25 Internet almost constantly; and, additionally, 36% of teens reported being concerned about
26 their social media use, while an earlier Pew Research Center study found that 59% of teens
27 have been bullied or harassed online; and

28 WHEREAS, The findings of the Pew Research Center are not surprising, given what
29 is known about controllers’ use of personal data and how it is utilized to inform
30 manipulative practices, to which children are particularly vulnerable; and

31 WHEREAS, Online products that are likely to be accessed by children should offer
32 strong privacy protections that, by design, prevent the use of children’s personal data to
33 offer elements that the covered entity offering the online product knows, or has reason to
34 know, are likely to be materially detrimental to the physical health, mental health, or
35 well-being of children; and

36 WHEREAS, Ensuring robust privacy, and thus safety, protections for children by
37 design is consistent with federal safety laws and policies applied to children’s products,
38 regulating everything from toys to clothing to furniture and games; and

1 WHEREAS, The consumer protections that federal safety laws apply to children’s
2 products require these products to comply with certain safety standards by their very
3 design, so that harms to children, and in some cases other consumers, are prevented; and

4 WHEREAS, It is the intent of the Maryland General Assembly that the Maryland
5 Age–Appropriate Design Code Act promote innovation by covered entities whose online
6 products are likely to be accessed by children by ensuring that those online products are
7 designed in a manner that recognizes the distinct needs of children within different age
8 ranges; and

9 WHEREAS, It is the intent of the Maryland General Assembly that covered entities
10 covered by the Maryland Age–Appropriate Design Code Act may look to guidance and
11 innovation in response to the Age–Appropriate Design Code established in the United
12 Kingdom and California when developing online products that are likely to be accessed by
13 children; now, therefore,

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
15 That the Laws of Maryland read as follows:

16 **Article – Commercial Law**

17 13–301.

18 Unfair, abusive, or deceptive trade practices include any:

19 (14) Violation of a provision of:

20 (xl) Title 14, Subtitle 13 of the Public Safety Article; [or]

21 (xli) Title 14, Subtitle 45 of this article; or

22 **(XLII) TITLE 14, SUBTITLE 46 OF THIS ARTICLE; OR**

23 **SUBTITLE 46. MARYLAND AGE–APPROPRIATE DESIGN CODE ACT.**

24 **14–4601.**

25 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
26 **INDICATED.**

27 **(B) (1) “AGGREGATE CONSUMER INFORMATION” MEANS INFORMATION:**

28 **(I) THAT RELATES TO A GROUP OR CATEGORY OF CONSUMERS;**

29 **(II) FROM WHICH INDIVIDUAL CONSUMER IDENTITIES HAVE**

1 BEEN REMOVED; AND

2 (III) THAT IS NOT LINKED OR REASONABLY LINKABLE TO ANY
3 CONSUMER OR HOUSEHOLD, INCLUDING BY A DEVICE.

4 (2) "AGGREGATE CONSUMER INFORMATION" DOES NOT INCLUDE
5 INDIVIDUAL CONSUMER RECORDS THAT HAVE BEEN DE-IDENTIFIED.

6 (C) "BEST INTERESTS OF CHILDREN" MEANS A COVERED ENTITY'S USE OF
7 THE PERSONAL DATA OF A CHILD OR THE DESIGN OF AN ONLINE PRODUCT IN A WAY
8 THAT DOES NOT:

9 (1) BENEFIT THE COVERED ENTITY TO THE DETRIMENT OF A CHILD;
10 AND

11 (2) RESULT IN:

12 (I) REASONABLY FORESEEABLE AND MATERIAL PHYSICAL OR
13 FINANCIAL HARM TO A CHILD;

14 (II) SEVERE AND REASONABLY FORESEEABLE PSYCHOLOGICAL
15 OR EMOTIONAL HARM TO A CHILD;

16 (III) A HIGHLY OFFENSIVE INTRUSION ON A CHILD'S
17 REASONABLE EXPECTATION OF PRIVACY; OR

18 (IV) DISCRIMINATION AGAINST A CHILD BASED ON RACE,
19 COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, SEX, OR SEXUAL ORIENTATION.

20 (D) (1) "BIOMETRIC INFORMATION" MEANS INFORMATION GENERATED
21 BY AUTOMATIC MEASUREMENTS OF AN INDIVIDUAL'S BIOLOGICAL
22 CHARACTERISTICS.

23 (2) "BIOMETRIC INFORMATION" INCLUDES:

24 (I) A FINGERPRINT;

25 (II) A VOICEPRINT;

26 (III) AN EYE RETINA OR IRIS PATTERN; OR

27 (IV) ANY OTHER UNIQUE BIOLOGICAL PATTERN OR
28 CHARACTERISTIC THAT IS USED TO IDENTIFY A SPECIFIC INDIVIDUAL.

1 **(3) “BIOMETRIC INFORMATION” DOES NOT INCLUDE:**

2 **(I) A DIGITAL OR PHYSICAL PHOTOGRAPH;**

3 **(II) AN AUDIO OR VIDEO RECORDING; OR**

4 **(III) DATA GENERATED FROM A DIGITAL OR PHYSICAL**
5 **PHOTOGRAPH, OR AN AUDIO OR VIDEO RECORDING, UNLESS THE DATA IS**
6 **GENERATED TO IDENTIFY A SPECIFIC INDIVIDUAL.**

7 **(E) “CHILD” MEANS A CONSUMER WHO IS UNDER THE AGE OF 18 YEARS.**

8 **(F) (1) “COLLECT” MEANS TO BUY, RENT, GATHER, OBTAIN, RECEIVE, OR**
9 **ACCESS PERSONAL DATA RELATING TO A CONSUMER.**

10 **(2) “COLLECT” INCLUDES:**

11 **(I) ACTIVELY OR PASSIVELY RECEIVING DATA FROM THE**
12 **CONSUMER; AND**

13 **(II) OBSERVING THE CONSUMER’S BEHAVIOR.**

14 **(G) (1) “CONSUMER” MEANS AN INDIVIDUAL WHO IS A RESIDENT OF THE**
15 **STATE, HOWEVER IDENTIFIED, INCLUDING BY A UNIQUE IDENTIFIER.**

16 **(2) “CONSUMER” DOES NOT INCLUDE AN INDIVIDUAL ACTING IN A**
17 **COMMERCIAL OR EMPLOYMENT CONTEXT OR AS AN EMPLOYER, AN OWNER, A**
18 **DIRECTOR, AN OFFICER, OR A CONTRACTOR OF A COMPANY, PARTNERSHIP, SOLE**
19 **PROPRIETORSHIP, NONPROFIT ORGANIZATION, OR GOVERNMENT AGENCY WHOSE**
20 **COMMUNICATIONS OR TRANSACTIONS WITH THE COVERED ENTITY OCCUR SOLELY**
21 **WITHIN THE CONTEXT OF THAT INDIVIDUAL’S ROLE WITH THE COMPANY,**
22 **PARTNERSHIP, SOLE PROPRIETORSHIP, NONPROFIT ORGANIZATION, OR**
23 **GOVERNMENT AGENCY.**

24 **(H) (1) “COVERED ENTITY” MEANS A SOLE PROPRIETORSHIP, A LIMITED**
25 **LIABILITY COMPANY, A CORPORATION, AN ASSOCIATION, OR ANY OTHER LEGAL**
26 **ENTITY THAT:**

27 **(I) IS ORGANIZED OR OPERATED FOR THE PROFIT OR**
28 **FINANCIAL BENEFIT OF ITS SHAREHOLDERS OR OTHER OWNERS;**

29 **(II) COLLECTS CONSUMERS’ PERSONAL INFORMATION OR USES**

1 ANOTHER ENTITY TO COLLECT CONSUMERS' PERSONAL INFORMATION ON ITS
2 BEHALF;

3 (III) ALONE, OR JOINTLY WITH ITS AFFILIATES OR
4 SUBSIDIARIES, DETERMINES THE PURPOSES AND MEANS OF THE PROCESSING OF
5 CONSUMERS' PERSONAL DATA;

6 (IV) DOES BUSINESS IN THE STATE; AND

7 (V) 1. HAS ANNUAL GROSS REVENUES IN EXCESS OF
8 \$25,000,000, ADJUSTED EVERY ODD-NUMBERED YEAR TO REFLECT ADJUSTMENTS
9 IN THE CONSUMER PRICE INDEX;

10 2. ANNUALLY BUYS, RECEIVES, SELLS, OR SHARES THE
11 PERSONAL DATA OF 50,000 OR MORE CONSUMERS, HOUSEHOLDS, OR DEVICES,
12 ALONE OR IN COMBINATION WITH ITS AFFILIATES OR SUBSIDIARIES, FOR THE
13 COVERED ENTITY'S COMMERCIAL PURPOSES; OR

14 3. DERIVES AT LEAST 50% OF ITS ANNUAL REVENUES
15 FROM THE SALE OF CONSUMERS' PERSONAL DATA.

16 (2) "COVERED ENTITY" INCLUDES:

17 (I) AN ENTITY THAT CONTROLS OR IS CONTROLLED BY A
18 BUSINESS AND THAT SHARES A NAME, SERVICE MARK, OR TRADEMARK THAT WOULD
19 CAUSE A REASONABLE CONSUMER TO UNDERSTAND THAT TWO OR MORE ENTITIES
20 ARE COMMONLY OWNED; AND

21 (II) A JOINT VENTURE OR PARTNERSHIP COMPOSED OF
22 BUSINESSES IN WHICH EACH HAS AT LEAST A 40% INTEREST IN THE JOINT VENTURE
23 OR PARTNERSHIP.

24 (I) "DARK PATTERN" MEANS A USER INTERFACE DESIGNED OR
25 MANIPULATED WITH THE PURPOSE OF SUBVERTING OR IMPAIRING USER
26 AUTONOMY, DECISION MAKING, OR CHOICE.

27 (J) "DATA PROTECTION IMPACT ASSESSMENT" OR "ASSESSMENT" MEANS A
28 SYSTEMATIC SURVEY TO ASSESS COMPLIANCE WITH THE DUTY TO ACT IN THE BEST
29 INTERESTS OF CHILDREN.

30 (K) "DEFAULT" MEANS A PRESELECTED OPTION ADOPTED BY THE
31 COVERED ENTITY FOR AN ONLINE PRODUCT.

1 **(L) “DE-IDENTIFIED INFORMATION” MEANS DATA THAT CANNOT**
2 **REASONABLY BE USED TO INFER INFORMATION ABOUT, OR OTHERWISE BE LINKED**
3 **TO, AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL, IF THE COVERED ENTITY THAT**
4 **POSSESSES THE DATA:**

5 **(1) TAKES REASONABLE MEASURES TO ENSURE THAT THE DATA**
6 **CANNOT BE LINKED WITH AN INDIVIDUAL;**

7 **(2) PUBLICLY COMMITS TO:**

8 **(I) MAINTAIN AND USE THE DATA IN DE-IDENTIFIED FORM;**
9 **AND**

10 **(II) NOT ATTEMPT TO RE-IDENTIFY THE INFORMATION; AND**

11 **(3) CONTRACTUALLY OBLIGATES ANY RECIPIENTS OF THE**
12 **INFORMATION TO COMPLY WITH ALL PROVISIONS OF THIS SUBSECTION.**

13 **(M) “DERIVED DATA” MEANS DATA THAT ARE DERIVED FROM OTHER DATA**
14 **OR INFORMATION, OR OTHERWISE OBTAINED THROUGH CORRELATIONS,**
15 **PREDICTIONS, ASSUMPTIONS, INFERENCES, OR CONCLUSIONS DRAWN FROM FACTS**
16 **OR EVIDENCE OR ANOTHER SOURCE OF INFORMATION OR DATA ABOUT A CHILD OR**
17 **A CHILD’S DEVICE.**

18 **(N) “DIVISION” MEANS THE DIVISION OF CONSUMER PROTECTION OF THE**
19 **OFFICE OF THE ATTORNEY GENERAL.**

20 **(O) (1) “ONLINE PRODUCT” MEANS AN ONLINE SERVICE, PRODUCT, OR**
21 **FEATURE.**

22 **(2) “ONLINE PRODUCT” DOES NOT INCLUDE:**

23 **(I) A TELECOMMUNICATIONS SERVICE, AS DEFINED IN 47**
24 **U.S.C. § 153;**

25 **(II) THE SALE, DELIVERY, OR USE OF A PHYSICAL PRODUCT**
26 **SOLD BY AN ONLINE RETAILER; OR**

27 **(III) A BROADBAND INTERNET ACCESS SERVICE, AS DEFINED IN**
28 **47 C.F.R. § 8.1(B).**

29 **(P) (1) “PERSONAL DATA” MEANS INFORMATION THAT IS LINKED OR**
30 **REASONABLY ABLE TO BE LINKED, ALONE OR IN COMBINATION WITH OTHER**

1 INFORMATION, TO AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL.

2 (2) "PERSONAL DATA" INCLUDES DERIVED DATA THAT OTHERWISE
3 MEETS THE DEFINITION IN PARAGRAPH (1) OF THIS SUBSECTION.

4 (Q) "PRECISE GEOLOCATION" MEANS ANY DATA THAT IS:

5 (1) DERIVED FROM A DEVICE; AND

6 (2) USED OR INTENDED TO BE USED TO LOCATE A CONSUMER
7 GEOGRAPHICALLY WITHIN A RADIUS OF UP TO 1,850 FEET.

8 (R) (1) "PROCESS" MEANS TO CONDUCT OR DIRECT ANY OPERATION
9 THAT MAY BE PERFORMED ON PERSONAL DATA, WHETHER OR NOT BY AUTOMATED
10 MEANS.

11 (2) "PROCESS" INCLUDES:

12 (I) COLLECTING PERSONAL DATA;

13 (II) USING PERSONAL DATA;

14 (III) STORING PERSONAL DATA;

15 (IV) DISCLOSING PERSONAL DATA;

16 (V) ANALYZING PERSONAL DATA;

17 (VI) DELETING PERSONAL DATA;

18 (VII) MODIFYING PERSONAL DATA; AND

19 (VIII) OTHERWISE HANDLING PERSONAL DATA.

20 (S) (1) "PROFILING" MEANS ANY FORM OF AUTOMATED PROCESSING OF
21 PERSONAL DATA THAT USES PERSONAL DATA TO EVALUATE, ANALYZE, OR PREDICT
22 CERTAIN ASPECTS RELATING TO AN INDIVIDUAL, INCLUDING AN INDIVIDUAL'S
23 ECONOMIC SITUATION, HEALTH, PERSONAL PREFERENCES, INTERESTS,
24 RELIABILITY, BEHAVIOR, LOCATION, OR MOVEMENTS.

25 (2) "PROFILING" DOES NOT INCLUDE THE PROCESSING OF
26 PERSONAL DATA THAT DOES NOT RESULT IN AN ASSESSMENT OR JUDGMENT ABOUT
27 AN INDIVIDUAL.

1 **(T) (1) “PUBLICLY AVAILABLE INFORMATION” MEANS INFORMATION**
2 **THAT:**

3 **(I) IS LAWFULLY MADE AVAILABLE FROM FEDERAL, STATE, OR**
4 **LOCAL GOVERNMENT RECORDS; OR**

5 **(II) A COVERED ENTITY HAS A REASONABLE BASIS TO BELIEVE**
6 **IS LAWFULLY MADE AVAILABLE TO THE GENERAL PUBLIC BY THE CONSUMER OR BY**
7 **WIDELY DISTRIBUTED MEDIA.**

8 **(2) “PUBLICLY AVAILABLE INFORMATION” DOES NOT INCLUDE**
9 **BIOMETRIC INFORMATION COLLECTED BY A COVERED ENTITY ABOUT A CONSUMER**
10 **WITHOUT THE CONSUMER’S KNOWLEDGE.**

11 **(U) “REASONABLY LIKELY TO BE ACCESSED BY CHILDREN” MEANS**
12 **REASONABLY EXPECTED THAT THE ONLINE PRODUCT WOULD BE ACCESSED BY**
13 **CHILDREN, BASED ON SATISFYING ANY OF THE FOLLOWING CRITERIA:**

14 **(1) THE ONLINE PRODUCT IS DIRECTED TO CHILDREN AS DEFINED IN**
15 **THE FEDERAL CHILDREN’S ONLINE PRIVACY PROTECTION ACT;**

16 **(2) THE ONLINE PRODUCT IS DETERMINED, BASED ON COMPETENT**
17 **AND RELIABLE EVIDENCE REGARDING AUDIENCE COMPOSITION, TO BE ROUTINELY**
18 **ACCESSED BY A SIGNIFICANT NUMBER OF CHILDREN;**

19 **(3) THE ONLINE PRODUCT IS SUBSTANTIALLY SIMILAR OR THE SAME**
20 **AS AN ONLINE PRODUCT THAT SATISFIES ITEM (2) OF THIS SUBSECTION;**

21 **(4) THE ONLINE PRODUCT FEATURES ADVERTISEMENTS MARKETED**
22 **TO CHILDREN;**

23 **(5) THE COVERED ENTITY’S INTERNAL RESEARCH FINDINGS**
24 **DETERMINE THAT A SIGNIFICANT AMOUNT OF THE ONLINE PRODUCT’S AUDIENCE IS**
25 **COMPOSED OF CHILDREN; OR**

26 **(6) THE COVERED ENTITY KNOWS OR SHOULD HAVE KNOWN THAT A**
27 **USER IS A CHILD.**

28 **(V) (1) “SELL” MEANS TO TRANSFER, RENT, RELEASE, DISCLOSE,**
29 **DISSEMINATE, MAKE AVAILABLE, OR OTHERWISE COMMUNICATE, WHETHER**
30 **ORALLY, IN WRITING, OR BY ELECTRONIC OR OTHER MEANS, A CONSUMER’S**
31 **PERSONAL DATA, IN A TRANSACTION FOR MONETARY OR OTHER VALUABLE**

1 CONSIDERATION BETWEEN A COVERED ENTITY AND A THIRD PARTY.

2 (2) "SELL" DOES NOT INCLUDE:

3 (I) THE DISCLOSURE OF PERSONAL DATA TO THE SERVICE
4 PROVIDER THAT PROCESSES PERSONAL DATA ON BEHALF OF THE COVERED ENTITY;

5 (II) THE DISCLOSURE OF PERSONAL DATA TO A THIRD PARTY
6 FOR PURPOSES OF PROVIDING A PRODUCT OR SERVICE REQUESTED BY THE
7 CONSUMER;

8 (III) THE DISCLOSURE OR TRANSFER OF PERSONAL DATA TO AN
9 AFFILIATE OR SUBSIDIARY OF THE COVERED ENTITY;

10 (IV) THE DISCLOSURE OF PERSONAL DATA WHERE THE
11 CONSUMER DIRECTS THE COVERED ENTITY TO DISCLOSE THE PERSONAL DATA OR
12 INTENTIONALLY USES THE COVERED ENTITY TO INTERACT WITH A THIRD PARTY; OR

13 (V) THE DISCLOSURE OR TRANSFER OF PERSONAL DATA TO A
14 THIRD PARTY AS AN ASSET THAT IS PART OF AN ACTUAL OR PROPOSED MERGER,
15 ACQUISITION, BANKRUPTCY, OR OTHER TRANSACTION, IN WHICH THE THIRD PARTY
16 ASSUMES CONTROL OF ALL OR PART OF THE COVERED ENTITY'S ASSETS.

17 (W) (1) "SENSITIVE PERSONAL DATA" MEANS:

18 (I) PERSONAL DATA THAT REVEALS A CONSUMER'S:

19 1. SOCIAL SECURITY NUMBER, DRIVER'S LICENSE
20 NUMBER, STATE IDENTIFICATION CARD NUMBER, OR PASSPORT NUMBER;

21 2. ACCOUNT LOGIN INFORMATION, FINANCIAL
22 ACCOUNT NUMBER, DEBIT CARD NUMBER, OR CREDIT CARD NUMBER, IN
23 COMBINATION WITH ANY REQUIRED SECURITY OR ACCESS CODE, PASSWORD, OR
24 CREDENTIALS THAT ALLOW ACCESS TO AN ACCOUNT;

25 3. PRECISE GEOLOCATION;

26 4. RACIAL OR ETHNIC ORIGIN OR RELIGIOUS OR
27 PHILOSOPHICAL BELIEFS;

28 5. MAIL, E-MAIL, TEXT, OR MESSAGE CONTENTS,
29 UNLESS THE COVERED ENTITY IS THE INTENDED RECIPIENT; OR

1 **6. GENETIC DATA;**

2 **(II) BIOMETRIC INFORMATION THAT IS OR MAY BE PROCESSED**
3 **FOR THE PURPOSE OF UNIQUELY IDENTIFYING A CONSUMER;**

4 **(III) PERSONAL DATA COLLECTED AND ANALYZED CONCERNING**
5 **A CONSUMER'S HEALTH; OR**

6 **(IV) PERSONAL DATA COLLECTED AND ANALYZED CONCERNING**
7 **A CONSUMER'S SEX LIFE OR SEXUAL ORIENTATION.**

8 **(2) "SENSITIVE PERSONAL DATA" DOES NOT INCLUDE PUBLICLY**
9 **AVAILABLE INFORMATION.**

10 **(X) "SERVICE PROVIDER" MEANS A PERSON THAT PROCESSES PERSONAL**
11 **DATA ON BEHALF OF A COVERED ENTITY AND THAT RECEIVES FROM OR ON BEHALF**
12 **OF THE COVERED ENTITY A CONSUMER'S PERSONAL DATA FOR BUSINESS PURPOSES**
13 **IN ACCORDANCE WITH A WRITTEN CONTRACT, IF THE CONTRACT PROHIBITS THE**
14 **PERSON FROM:**

15 **(1) SELLING OR SHARING THE PERSONAL DATA;**

16 **(2) RETAINING, USING, OR DISCLOSING THE PERSONAL DATA FOR**
17 **ANY PURPOSE OTHER THAN FOR THE BUSINESS PURPOSES SPECIFIED IN THE**
18 **CONTRACT FOR THE COVERED ENTITY, INCLUDING RETAINING, USING, OR**
19 **DISCLOSING THE PERSONAL DATA FOR A COMMERCIAL PURPOSE OTHER THAN THE**
20 **BUSINESS PURPOSES SPECIFIED IN THE CONTRACT WITH THE COVERED ENTITY, OR**
21 **AS OTHERWISE ALLOWED UNDER THIS SUBTITLE;**

22 **(3) RETAINING, USING, OR DISCLOSING THE PERSONAL DATA**
23 **OUTSIDE THE DIRECT BUSINESS RELATIONSHIP BETWEEN THE SERVICE PROVIDER**
24 **AND THE COVERED ENTITY; AND**

25 **(4) COMBINING THE PERSONAL DATA THAT THE SERVICE PROVIDER**
26 **RECEIVES FROM, OR ON BEHALF OF, THE COVERED ENTITY WITH PERSONAL DATA**
27 **THAT IT RECEIVES FROM, OR ON BEHALF OF, ANOTHER PERSON OR PERSONS, OR**
28 **COLLECTS FROM ITS OWN INTERACTION WITH THE CONSUMER.**

29 **(Y) "SHARE" MEANS TO RENT, RELEASE, DISSEMINATE, MAKE AVAILABLE,**
30 **TRANSFER, OR OTHERWISE COMMUNICATE, WHETHER ORALLY, IN WRITING, OR BY**
31 **ELECTRONIC OR OTHER MEANS, A CONSUMER'S PERSONAL DATA TO A THIRD PARTY**
32 **FOR CROSS-CONTEXT BEHAVIORAL ADVERTISING WHETHER OR NOT FOR**
33 **MONETARY OR OTHER VALUABLE CONSIDERATION, INCLUDING IN A TRANSACTION**

1 BETWEEN A COVERED ENTITY AND A THIRD PARTY FOR TARGETED ADVERTISING
2 FOR THE BENEFIT OF A COVERED ENTITY IN WHICH NO MONEY IS EXCHANGED.

3 (Z) (1) "TARGETED ADVERTISING" MEANS DISPLAYING
4 ADVERTISEMENTS TO A CONSUMER WHERE THE ADVERTISEMENT IS SELECTED
5 BASED ON PERSONAL DATA OBTAINED OR INFERRED FROM THAT CONSUMER'S
6 ACTIVITIES OVER TIME AND ACROSS NONAFFILIATED INTERNET WEBSITES OR
7 ONLINE APPLICATIONS TO PREDICT THE CONSUMER'S PREFERENCES OR
8 INTERESTS.

9 (2) "TARGETED ADVERTISING" DOES NOT INCLUDE:

10 (I) ADVERTISEMENTS BASED ON ACTIVITIES WITHIN A
11 COVERED ENTITY'S OWN INTERNET WEBSITES OR ONLINE APPLICATIONS;

12 (II) ADVERTISEMENTS BASED ON THE CONTEXT OF A
13 CONSUMER'S CURRENT SEARCH QUERY, VISIT TO AN INTERNET WEBSITE, OR USE OF
14 AN ONLINE APPLICATION;

15 (III) ADVERTISEMENTS DIRECTED TO A CONSUMER IN
16 RESPONSE TO THE CONSUMER'S REQUEST FOR INFORMATION OR FEEDBACK; OR

17 (IV) PROCESSING PERSONAL DATA SOLELY TO MEASURE OR
18 REPORT ADVERTISING FREQUENCY, PERFORMANCE, OR REACH.

19 (AA) "THIRD PARTY" MEANS A PERSON WHO IS NOT:

20 (1) THE COVERED ENTITY WITH WHICH THE CONSUMER
21 INTENTIONALLY INTERACTS AND THAT COLLECTS PERSONAL DATA FROM THE
22 CONSUMER AS PART OF THE CONSUMER'S INTERACTION WITH THE COVERED
23 ENTITY; OR

24 (2) A SERVICE PROVIDER FOR THE COVERED ENTITY.

25 14-4602.

26 THIS SUBTITLE DOES NOT APPLY TO:

27 (1) PROTECTED HEALTH INFORMATION THAT IS COLLECTED BY A
28 COVERED ENTITY OR BUSINESS ASSOCIATION GOVERNED BY THE PRIVACY
29 SECURITY AND BREACH NOTIFICATION RULES IN 45 C.F.R. PARTS 160 AND 164,
30 ESTABLISHED UNDER THE FEDERAL HEALTH INSURANCE PORTABILITY AND
31 ACCOUNTABILITY ACT OF 1996 AND THE FEDERAL HEALTH INFORMATION

1 **TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT;**

2 **(2) A COVERED ENTITY GOVERNED BY THE PRIVACY SECURITY AND**
3 **BREACH NOTIFICATION RULES IN 45 C.F.R. PARTS 160 AND 164, ESTABLISHED**
4 **UNDER THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY**
5 **ACT OF 1996 AND THE FEDERAL HEALTH INFORMATION TECHNOLOGY FOR**
6 **ECONOMIC AND CLINICAL HEALTH ACT, TO THE EXTENT THAT THE COVERED**
7 **ENTITY MAINTAINS PATIENT INFORMATION IN THE SAME MANNER AS MEDICAL**
8 **INFORMATION OR PROTECTED HEALTH INFORMATION AS DESCRIBED IN ITEM (1) OF**
9 **THIS SECTION; OR**

10 **(3) INFORMATION COLLECTED AS PART OF A CLINICAL TRIAL**
11 **SUBJECT TO THE FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS,**
12 **IN ACCORDANCE WITH:**

13 **(i) GOOD CLINICAL PRACTICE GUIDELINES ISSUED BY THE**
14 **INTERNATIONAL COUNCIL FOR HARMONISATION OF TECHNICAL REQUIREMENTS**
15 **FOR PHARMACEUTICALS FOR HUMAN USE; OR**

16 **(ii) HUMAN SUBJECT PROTECTION REQUIREMENTS OF THE**
17 **U.S. FOOD AND DRUG ADMINISTRATION.**

18 **14-4603.**

19 **IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:**

20 **(1) CHILDREN SHOULD BE AFFORDED PROTECTIONS NOT ONLY BY**
21 **ONLINE PRODUCTS SPECIFICALLY DIRECTED AT THEM, BUT BY ALL ONLINE**
22 **PRODUCTS THEY ARE REASONABLY LIKELY TO ACCESS;**

23 **(2) COVERED ENTITIES THAT DEVELOP AND PROVIDE ONLINE**
24 **SERVICES THAT CHILDREN ARE LIKELY TO ACCESS SHALL ENSURE THE BEST**
25 **INTERESTS OF CHILDREN WHEN DESIGNING, DEVELOPING, AND PROVIDING THOSE**
26 **ONLINE PRODUCTS;**

27 **(3) ALL COVERED ENTITIES THAT OPERATE IN THE STATE AND**
28 **PROCESS CHILDREN'S DATA IN ANY CAPACITY SHALL DO SO IN A MANNER**
29 **CONSISTENT WITH THE BEST INTERESTS OF CHILDREN;**

30 **(4) IF A CONFLICT ARISES BETWEEN COMMERCIAL INTERESTS AND**
31 **THE BEST INTERESTS OF CHILDREN, COVERED ENTITIES THAT DEVELOP ONLINE**
32 **PRODUCTS LIKELY TO BE ACCESSED BY CHILDREN SHALL GIVE PRIORITY TO THE**
33 **PRIVACY, SAFETY, AND WELL-BEING OF CHILDREN OVER THOSE COMMERCIAL**

1 INTERESTS; AND

2 (5) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO INFRINGE ON
3 THE EXISTING RIGHTS AND FREEDOMS OF CHILDREN.

4 14-4604.

5 (A) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A COVERED
6 ENTITY THAT PROVIDES AN ONLINE PRODUCT REASONABLY LIKELY TO BE
7 ACCESSED BY CHILDREN SHALL PREPARE A DATA PROTECTION IMPACT
8 ASSESSMENT FOR THE ONLINE PRODUCT.

9 (2) ON OR BEFORE APRIL 1, 2026, A COVERED ENTITY SHALL
10 PREPARE A DATA PROTECTION IMPACT ASSESSMENT FOR ANY ONLINE PRODUCT
11 THAT:

12 (I) MEETS THE CRITERIA UNDER PARAGRAPH (1) OF THIS
13 SUBSECTION;

14 (II) IS OFFERED TO THE PUBLIC ON OR BEFORE APRIL 1, 2026;
15 AND

16 (III) WILL CONTINUE TO BE OFFERED TO THE PUBLIC AFTER
17 JULY 1, 2026.

18 (3) FOR AN ONLINE PRODUCT THAT MEETS THE CRITERIA UNDER
19 PARAGRAPH (1) OF THIS SUBSECTION AND IS INITIALLY OFFERED TO THE PUBLIC
20 AFTER APRIL 1, 2026, A COVERED ENTITY SHALL COMPLETE A DATA PROTECTION
21 IMPACT ASSESSMENT WITHIN 90 DAYS AFTER THE ONLINE PRODUCT IS OFFERED TO
22 THE PUBLIC.

23 (B) THE DATA PROTECTION IMPACT ASSESSMENT SHALL:

24 (1) IDENTIFY THE PURPOSE OF THE ONLINE PRODUCT;

25 (2) IDENTIFY HOW THE ONLINE PRODUCT USES CHILDREN'S DATA;

26 (3) DETERMINE WHETHER THE ONLINE PRODUCT IS DESIGNED AND
27 OFFERED IN A MANNER CONSISTENT WITH THE BEST INTERESTS OF CHILDREN
28 REASONABLY LIKELY TO ACCESS THE ONLINE PRODUCT THROUGH CONSIDERATION
29 OF:

30 (I) WHETHER THE DATA MANAGEMENT OR PROCESSING

1 PRACTICES OF THE ONLINE PRODUCT COULD LEAD TO CHILDREN EXPERIENCING OR
2 BEING TARGETED BY CONTACTS THAT WOULD RESULT IN:

3 1. REASONABLY FORESEEABLE AND MATERIAL
4 PHYSICAL OR FINANCIAL HARM TO THE CHILD;

5 2. REASONABLY FORESEEABLE AND EXTREME
6 PSYCHOLOGICAL OR EMOTIONAL HARM TO THE CHILD;

7 3. A HIGHLY OFFENSIVE INTRUSION ON THE CHILD'S
8 REASONABLE EXPECTATION OF PRIVACY; OR

9 4. DISCRIMINATION AGAINST THE CHILD BASED ON
10 RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, SEX, OR SEXUAL
11 ORIENTATION;

12 (II) WHETHER THE DATA MANAGEMENT OR PROCESSING
13 PRACTICES OF THE ONLINE PRODUCT COULD PERMIT CHILDREN TO WITNESS,
14 PARTICIPATE IN, OR BE SUBJECT TO CONDUCT THAT WOULD RESULT IN:

15 1. REASONABLY FORESEEABLE AND MATERIAL
16 PHYSICAL OR FINANCIAL HARM TO THE CHILD;

17 2. REASONABLY FORESEEABLE AND EXTREME
18 PSYCHOLOGICAL OR EMOTIONAL HARM TO THE CHILD;

19 3. A HIGHLY OFFENSIVE INTRUSION ON THE CHILD'S
20 REASONABLE EXPECTATION OF PRIVACY; OR

21 4. DISCRIMINATION AGAINST THE CHILD BASED ON
22 RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, SEX, OR SEXUAL
23 ORIENTATION;

24 (III) WHETHER THE DATA MANAGEMENT OR PROCESSING
25 PRACTICES OF THE ONLINE PRODUCT ARE REASONABLY EXPECTED TO ALLOW
26 CHILDREN BECOMING PARTY TO OR EXPLOITED BY A CONTRACT THROUGH THE
27 ONLINE PRODUCT THAT WOULD RESULT IN:

28 1. REASONABLY FORESEEABLE AND MATERIAL
29 PHYSICAL OR FINANCIAL HARM TO THE CHILD;

30 2. REASONABLY FORESEEABLE AND EXTREME
31 PSYCHOLOGICAL OR EMOTIONAL HARM TO THE CHILD;

1 3. A HIGHLY OFFENSIVE INTRUSION ON THE CHILD'S
2 REASONABLE EXPECTATION OF PRIVACY; OR

3 4. DISCRIMINATION AGAINST THE CHILD BASED ON
4 RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, SEX, OR SEXUAL
5 ORIENTATION;

6 (IV) WHETHER TARGETED ADVERTISING SYSTEMS USED BY THE
7 ONLINE PRODUCT WOULD RESULT IN:

8 1. REASONABLY FORESEEABLE AND MATERIAL
9 PHYSICAL OR FINANCIAL HARM TO THE CHILD;

10 2. REASONABLY FORESEEABLE AND EXTREME
11 PSYCHOLOGICAL OR EMOTIONAL HARM TO THE CHILD;

12 3. A HIGHLY OFFENSIVE INTRUSION ON THE CHILD'S
13 REASONABLE EXPECTATION OF PRIVACY; OR

14 4. DISCRIMINATION AGAINST THE CHILD BASED ON
15 RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, SEX, OR SEXUAL
16 ORIENTATION;

17 (V) WHETHER THE ONLINE PRODUCT USES SYSTEM DESIGN
18 FEATURES TO INCREASE, SUSTAIN, OR EXTEND THE USE OF THE ONLINE PRODUCT,
19 INCLUDING THE AUTOMATIC PLAYING OF MEDIA, REWARDS FOR TIME SPENT, AND
20 NOTIFICATIONS THAT WOULD RESULT IN:

21 1. REASONABLY FORESEEABLE AND MATERIAL
22 PHYSICAL OR FINANCIAL HARM TO THE CHILD;

23 2. REASONABLY FORESEEABLE AND EXTREME
24 PSYCHOLOGICAL OR EMOTIONAL HARM TO THE CHILD;

25 3. A HIGHLY OFFENSIVE INTRUSION ON THE CHILD'S
26 REASONABLE EXPECTATION OF PRIVACY; OR

27 4. DISCRIMINATION AGAINST THE CHILD BASED ON
28 RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, SEX, OR SEXUAL
29 ORIENTATION;

30 (VI) WHETHER, HOW, AND FOR WHAT PURPOSE THE ONLINE

1 PRODUCT COLLECTS OR PROCESSES SENSITIVE PERSONAL DATA OF CHILDREN AND
2 WHETHER THOSE PRACTICES WOULD RESULT IN:

3 1. REASONABLY FORESEEABLE AND MATERIAL
4 PHYSICAL OR FINANCIAL HARM TO THE CHILD;

5 2. REASONABLY FORESEEABLE AND EXTREME
6 PSYCHOLOGICAL OR EMOTIONAL HARM TO THE CHILD;

7 3. A HIGHLY OFFENSIVE INTRUSION ON THE CHILD'S
8 REASONABLE EXPECTATION OF PRIVACY; OR

9 4. DISCRIMINATION AGAINST THE CHILD BASED ON
10 RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, SEX, OR SEXUAL
11 ORIENTATION;

12 (VII) WHETHER AND HOW DATA COLLECTED TO UNDERSTAND
13 THE EXPERIMENTAL IMPACT OF THE PRODUCT REVEALS DATA MANAGEMENT OR
14 DESIGN PRACTICES THAT WOULD RESULT IN:

15 1. REASONABLY FORESEEABLE AND MATERIAL
16 PHYSICAL OR FINANCIAL HARM TO THE CHILD;

17 2. REASONABLY FORESEEABLE AND EXTREME
18 PSYCHOLOGICAL OR EMOTIONAL HARM TO THE CHILD;

19 3. A HIGHLY OFFENSIVE INTRUSION ON THE CHILD'S
20 REASONABLE EXPECTATION OF PRIVACY; OR

21 4. DISCRIMINATION AGAINST THE CHILD BASED ON
22 RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, SEX, OR SEXUAL
23 ORIENTATION;

24 (VIII) WHETHER ALGORITHMS USED BY THE ONLINE PRODUCT
25 WOULD RESULT IN:

26 1. REASONABLY FORESEEABLE AND MATERIAL
27 PHYSICAL OR FINANCIAL HARM TO THE CHILD;

28 2. REASONABLY FORESEEABLE AND EXTREME
29 PSYCHOLOGICAL OR EMOTIONAL HARM TO THE CHILD;

30 3. A HIGHLY OFFENSIVE INTRUSION ON THE CHILD'S

1 REASONABLE EXPECTATION OF PRIVACY; OR

2 4. DISCRIMINATION AGAINST THE CHILD BASED ON
3 RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, SEX, OR SEXUAL
4 ORIENTATION; AND

5 (IX) ANY OTHER FACTOR THAT MAY INDICATE THAT THE ONLINE
6 PRODUCT IS DESIGNED AND OFFERED IN A MANNER THAT IS INCONSISTENT WITH
7 THE BEST INTERESTS OF CHILDREN.

8 (C) (1) A DATA PROTECTION IMPACT ASSESSMENT PREPARED BY A
9 COVERED ENTITY FOR THE PURPOSE OF COMPLIANCE WITH ANY OTHER LAW
10 COMPLIES WITH THIS SECTION IF THE ASSESSMENT MEETS THE REQUIREMENTS OF
11 THIS SECTION.

12 (2) A SINGLE DATA PROTECTION IMPACT ASSESSMENT MAY CONTAIN
13 MULTIPLE SIMILAR PROCESSING OPERATIONS THAT PRESENT SIMILAR RISKS ONLY
14 IF EACH RELEVANT ONLINE PRODUCT IS ADDRESSED.

15 14-4605.

16 A COVERED ENTITY REQUIRED TO COMPLETE A DATA PROTECTION IMPACT
17 ASSESSMENT UNDER § 14-4604 OF THIS SUBTITLE SHALL:

18 (1) MAINTAIN DOCUMENTATION OF THE ASSESSMENT FOR AS LONG
19 AS THE ONLINE PRODUCT IS LIKELY TO BE ACCESSED BY CHILDREN;

20 (2) REVIEW EACH DATA PROTECTION IMPACT ASSESSMENT AS
21 NECESSARY TO ACCOUNT FOR MATERIAL CHANGES TO PROCESSING PERTAINING TO
22 THE ONLINE PRODUCT WITHIN 90 DAYS OF SUCH MATERIAL CHANGES;

23 (3) CONFIGURE ALL DEFAULT PRIVACY SETTINGS PROVIDED TO
24 CHILDREN BY THE ONLINE PRODUCT TO OFFER A HIGH LEVEL OF PRIVACY, UNLESS
25 THE COVERED ENTITY CAN DEMONSTRATE A COMPELLING REASON THAT A
26 DIFFERENT SETTING IS IN THE BEST INTERESTS OF CHILDREN;

27 (4) PROVIDE ANY PRIVACY INFORMATION, TERMS OF SERVICE,
28 POLICIES, AND COMMUNITY STANDARDS CONCISELY, PROMINENTLY, AND USING
29 CLEAR LANGUAGE SUITED TO THE AGE OF CHILDREN LIKELY TO ACCESS THE
30 ONLINE PRODUCT; AND

31 (5) PROVIDE PROMINENT, ACCESSIBLE, AND RESPONSIVE TOOLS TO
32 HELP CHILDREN OR THEIR PARENTS OR GUARDIANS, IF APPLICABLE, EXERCISE

1 THEIR PRIVACY RIGHTS AND REPORT CONCERNS.

2 14-4606.

3 (A) A COVERED ENTITY THAT PROVIDES AN ONLINE PRODUCT THAT IS
4 ACCESSED OR REASONABLY LIKELY TO BE ACCESSED BY CHILDREN MAY NOT:

5 (1) PROCESS THE PERSONAL DATA OF A CHILD IN A WAY THAT IS
6 INCONSISTENT WITH THE BEST INTERESTS OF CHILDREN REASONABLY LIKELY TO
7 ACCESS THE ONLINE PRODUCT;

8 (2) PROFILE A CHILD BY DEFAULT, UNLESS:

9 (I) THE COVERED ENTITY CAN DEMONSTRATE THAT THE
10 COVERED ENTITY HAS APPROPRIATE SAFEGUARDS IN PLACE TO ENSURE THAT
11 PROFILING IS CONSISTENT WITH THE BEST INTERESTS OF CHILDREN WHO ACCESS
12 OR ARE REASONABLY LIKELY TO ACCESS THE ONLINE PRODUCT; AND

13 (II) 1. PROFILING IS NECESSARY TO PROVIDE THE ONLINE
14 PRODUCT, AND IS DONE ONLY WITH RESPECT TO THE ASPECTS OF THE ONLINE
15 PRODUCT THAT THE CHILD IS ACTIVELY AND KNOWINGLY ENGAGED WITH; OR

16 2. THE COVERED ENTITY CAN DEMONSTRATE A
17 COMPELLING REASON THAT PROFILING IS IN THE BEST INTERESTS OF CHILDREN;

18 (3) PROCESS PERSONAL DATA OF A CHILD THAT IS NOT REASONABLY
19 NECESSARY TO PROVIDE AN ONLINE PRODUCT THAT THE CHILD IS ACTIVELY AND
20 KNOWINGLY ENGAGED WITH;

21 (4) PROCESS THE PERSONAL DATA OF A CHILD END USER FOR ANY
22 REASON OTHER THAN A REASON FOR WHICH THAT PERSONAL DATA WAS
23 COLLECTED;

24 (5) PROCESS ANY PRECISE GEOLOCATION INFORMATION OF A CHILD
25 BY DEFAULT, UNLESS:

26 (I) THE COLLECTION OF THE PRECISE GEOLOCATION
27 INFORMATION IS STRICTLY NECESSARY FOR THE COVERED ENTITY TO PROVIDE THE
28 ONLINE PRODUCT; AND

29 (II) THE PRECISE GEOLOCATION DATA IS PROCESSED ONLY FOR
30 THE LIMITED TIME THAT IS NECESSARY TO PROVIDE THE ONLINE PRODUCT;

1 **(6) PROCESS ANY PRECISE GEOLOCATION INFORMATION OF A CHILD**
2 **WITHOUT PROVIDING AN OBVIOUS SIGNAL TO THE CHILD FOR THE DURATION THAT**
3 **THE PRECISE GEOLOCATION INFORMATION IS BEING COLLECTED;**

4 **(7) USE DARK PATTERNS TO:**

5 **(I) CAUSE A CHILD TO PROVIDE PERSONAL DATA BEYOND**
6 **WHAT IS REASONABLY EXPECTED TO PROVIDE THE ONLINE PRODUCT;**

7 **(II) CIRCUMVENT PRIVACY PROTECTIONS; OR**

8 **(III) TAKE ANY ACTION THAT THE COVERED ENTITY KNOWS, OR**
9 **HAS REASON TO KNOW, IS NOT IN THE BEST INTERESTS OF CHILDREN WHO ACCESS**
10 **OR ARE REASONABLY LIKELY TO ACCESS THE ONLINE PRODUCT;**

11 **(8) PROCESS ANY PERSONAL DATA FOR THE PURPOSE OF**
12 **ESTIMATING THE AGE OF A CHILD THAT IS ACTIVELY AND KNOWINGLY ENGAGED**
13 **WITH AN ONLINE PRODUCT THAT IS NOT REASONABLY NECESSARY TO PROVIDE THE**
14 **ONLINE PRODUCT; OR**

15 **(9) ALLOW A CHILD'S PARENT, GUARDIAN, OR ANY OTHER CONSUMER**
16 **TO MONITOR THE CHILD'S ONLINE ACTIVITY OR TRACK THE CHILD'S LOCATION,**
17 **WITHOUT PROVIDING AN OBVIOUS SIGNAL TO THE CHILD WHEN THE CHILD IS BEING**
18 **MONITORED OR TRACKED.**

19 **(B) IN MAKING A DETERMINATION AS TO WHETHER AN ONLINE PRODUCT IS**
20 **REASONABLY LIKELY TO BE ACCESSED BY CHILDREN, A COVERED ENTITY MAY NOT**
21 **COLLECT OR PROCESS ANY PERSONAL DATA BEYOND WHAT IS REASONABLY**
22 **NECESSARY TO MAKE THE DETERMINATION.**

23 **14-4607.**

24 **(A) WITHIN 5 BUSINESS DAYS AFTER RECEIVING A WRITTEN REQUEST FROM**
25 **THE DIVISION, A COVERED ENTITY THAT PROVIDES AN ONLINE PRODUCT**
26 **REASONABLY LIKELY TO BE ACCESSED BY CHILDREN SHALL PROVIDE TO THE**
27 **DIVISION A LIST OF ALL DATA PROTECTION IMPACT ASSESSMENTS THE COVERED**
28 **ENTITY HAS COMPLETED UNDER § 14-4604 OF THIS SUBTITLE.**

29 **(B) (1) WITHIN 7 BUSINESS DAYS AFTER RECEIVING A WRITTEN REQUEST**
30 **FROM THE DIVISION, A COVERED ENTITY SHALL PROVIDE TO THE DIVISION ANY**
31 **DATA PROTECTION IMPACT ASSESSMENT COMPLETED UNDER § 14-4604 OF THIS**
32 **SUBTITLE.**

1 **(2) THE DIVISION MAY EXTEND BEYOND 7 DAYS THE AMOUNT OF**
2 **TIME ALLOWED FOR A COVERED ENTITY TO PRODUCE A DATA PROTECTION IMPACT**
3 **ASSESSMENT.**

4 **(C) TO THE EXTENT THAT ANY DISCLOSURE REQUIRED UNDER SUBSECTION**
5 **(B) OF THIS SECTION INCLUDES INFORMATION SUBJECT TO ATTORNEY-CLIENT**
6 **PRIVILEGE OR WORK-PRODUCT PROTECTION, THE DISCLOSURE MAY NOT**
7 **CONSTITUTE A WAIVER OF THAT PRIVILEGE OR PROTECTION.**

8 **14-4608.**

9 **(A) A VIOLATION OF THIS SUBTITLE:**

10 **(1) IS AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE; AND**

11 **(2) EXCEPT FOR § 13-410 OF THIS ARTICLE, IS SUBJECT TO THE**
12 **ENFORCEMENT PROVISIONS CONTAINED IN TITLE 13 OF THIS ARTICLE.**

13 **(B) A COVERED ENTITY THAT VIOLATES THIS SUBTITLE IS SUBJECT TO A**
14 **CIVIL PENALTY NOT EXCEEDING:**

15 **(1) \$2,500 PER AFFECTED CHILD FOR EACH NEGLIGENT VIOLATION;**
16 **AND**

17 **(2) \$7,500 PER AFFECTED CHILD FOR EACH INTENTIONAL**
18 **VIOLATION.**

19 **(C) THE DIVISION SHALL PAY ALL FINES, PENALTIES, AND EXPENSES**
20 **COLLECTED BY THE DIVISION UNDER THIS SUBSECTION INTO THE GENERAL FUND**
21 **WITH THE INTENT THAT FINES, PENALTIES, AND EXPENSES BE USED TO FULLY**
22 **OFFSET ANY COSTS INCURRED BY THE DIVISION IN CONNECTION WITH THIS**
23 **SUBTITLE.**

24 **14-4609.**

25 **(A) IF A COVERED ENTITY IS IN SUBSTANTIAL COMPLIANCE WITH THE**
26 **REQUIREMENTS OF §§ 14-4604 THROUGH 14-4606 OF THIS SUBTITLE, THE**
27 **DIVISION SHALL PROVIDE WRITTEN NOTICE TO THE COVERED ENTITY BEFORE**
28 **FILING AN ACTION UNDER § 14-4608 OF THIS SUBTITLE.**

29 **(B) NOTICE GIVEN UNDER SUBSECTION (A) OF THIS SECTION SHALL**
30 **IDENTIFY THE SPECIFIC PROVISIONS OF THIS SUBTITLE THAT THE DIVISION**
31 **ALLEGES HAVE BEEN OR ARE BEING VIOLATED.**

1 (C) A COVERED ENTITY MAY NOT BE LIABLE FOR A CIVIL PENALTY FOR A
2 VIOLATION FOR WHICH NOTICE IS GIVEN UNDER SUBSECTION (A) OF THIS SECTION
3 IF THE COVERED ENTITY:

4 (1) HAS COMPLETED A DATA PROTECTION IMPACT ASSESSMENT
5 UNDER § 14-4604(A)(2) OF THIS SUBTITLE FOR EXISTING ONLINE PRODUCTS THAT
6 ARE REASONABLY LIKELY TO BE ACCESSED BY CHILDREN;

7 (2) HAS COMPLETED A DATA PROTECTION IMPACT ASSESSMENT
8 UNDER § 14-4604(A)(3) OF THIS SUBTITLE PRIOR TO OFFERING TO THE PUBLIC A
9 NEW ONLINE PRODUCT THAT IS REASONABLY LIKELY TO BE ACCESSED BY
10 CHILDREN;

11 (3) CURES THE VIOLATION SPECIFIED IN THE DIVISION'S NOTICE
12 WITHIN 90 DAYS AFTER ISSUANCE OF THE NOTICE UNDER SUBSECTION (A) OF THIS
13 SECTION;

14 (4) PROVIDES THE DIVISION WITH A WRITTEN STATEMENT THAT THE
15 ALLEGED VIOLATION HAS BEEN CURED; AND

16 (5) TAKES MEASURES TO PREVENT ANY FUTURE VIOLATION THAT
17 THE DIVISION AGREED TO BE SUFFICIENT.

18 14-4610.

19 NOTHING IN THIS SUBTITLE MAY BE INTERPRETED OR CONSTRUED TO:

20 (1) PROVIDE A PRIVATE RIGHT OF ACTION UNDER THIS SUBTITLE OR
21 ANY OTHER LAW;

22 (2) IMPOSE LIABILITY IN A MANNER THAT IS INCONSISTENT WITH 47
23 U.S.C. § 230;

24 (3) PREVENT OR PRECLUDE A CHILD FROM DELIBERATELY OR
25 INDEPENDENTLY SEARCHING FOR OR SPECIFICALLY REQUESTING CONTENT; OR

26 (4) REQUIRE A COVERED ENTITY TO IMPLEMENT AN AGE-GATING
27 REQUIREMENT.

28 14-4611.

29 NOTWITHSTANDING ANY OTHER LAW, A DATA PROTECTION IMPACT

1 ASSESSMENT IS PROTECTED AS CONFIDENTIAL AND SHALL BE EXEMPT FROM
2 PUBLIC DISCLOSURE, INCLUDING UNDER THE MARYLAND PUBLIC INFORMATION
3 ACT.

4 14-4612.

5 THIS SUBTITLE MAY BE CITED AS THE MARYLAND AGE-APPROPRIATE
6 DESIGN CODE ACT.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2024.