

SENATE BILL 571

I3, S1

(4lr1822)

ENROLLED BILL
— *Finance/Economic Matters* —

Introduced by **Senators Kramer, Hester, and West**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

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 authorizing certain monitoring practices; and generally relating to the protection of
9 online privacy of children.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 BY repealing and reenacting, without amendments,
2 Article – Commercial Law
3 Section 13–301(14)(xli)
4 Annotated Code of Maryland
5 (2013 Replacement Volume and 2023 Supplement)

6 BY adding to
7 Article – Commercial Law
8 Section 13–301(14)(xlii); and 14–4601 through ~~14–4612~~ 14–4613 to be under the new
9 subtitle “Subtitle 46. Maryland Age–Appropriate Design Code Act”
10 Annotated Code of Maryland
11 (2013 Replacement Volume and 2023 Supplement)

12 Preamble

13 WHEREAS, The United Nations Convention on the Rights of the Child recognizes
14 that children need special safeguards and care in all aspects of their lives, specifying how
15 children’s rights apply in the digital environment in General Comment No. 25; and

16 WHEREAS, As children spend more of their time interacting with the online world,
17 the impact of the design of online products on their well–being has become a focus of
18 significant concern; and

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

22 WHEREAS, Lawmakers around the globe have taken steps to enhance privacy
23 protections for children based on the understanding that, in relation to data protection,
24 greater privacy necessarily means greater security and well–being; and

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

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

36 WHEREAS, According to the Pew Research Center, in 2022, 97% of American
37 teenagers aged 13–17 used the Internet every day, with 46% responding they used the

1 Internet almost constantly; and, additionally, 36% of teens reported being concerned about
2 their social media use, while an earlier Pew Research Center study found that 59% of teens
3 have been bullied or harassed online; and

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

7 WHEREAS, Online products that are likely to be accessed by children should offer
8 strong privacy protections that, by design, prevent the use of children's personal data to
9 offer elements that the covered entity offering the online product knows, or has reason to
10 know, are likely to be materially detrimental to the physical health, mental health, or
11 well-being of children; and

12 WHEREAS, Ensuring robust privacy, and thus safety, protections for children by
13 design is consistent with federal safety laws and policies applied to children's products,
14 regulating everything from toys to clothing to furniture and games; and

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

18 WHEREAS, It is the intent of the Maryland General Assembly that the Maryland
19 Age-Appropriate Design Code Act promote innovation by covered entities whose online
20 products are likely to be accessed by children by ensuring that those online products are
21 designed in a manner that recognizes the distinct needs of children within different age
22 ranges; ~~and now, therefore,~~

23 ~~WHEREAS, It is the intent of the Maryland General Assembly that covered entities~~
24 ~~covered by the Maryland Age-Appropriate Design Code Act may look to guidance and~~
25 ~~innovation in response to the Age-Appropriate Design Code established in the United~~
26 ~~Kingdom and California when developing online products that are likely to be accessed by~~
27 ~~children; now, therefore,~~

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

30 **Article – Commercial Law**

31 13–301.

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

33 (14) Violation of a provision of:

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

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

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

SUBTITLE 46. MARYLAND AGE-APPROPRIATE DESIGN CODE ACT.

14-4601.

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

(B) (1) "AGGREGATE CONSUMER INFORMATION" MEANS INFORMATION:

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

(II) FROM WHICH INDIVIDUAL CONSUMER IDENTITIES HAVE BEEN REMOVED; AND

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

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

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

(1) BENEFIT THE COVERED ENTITY TO THE DETRIMENT OF ~~A CHILD~~ CHILDREN; AND

(2) RESULT IN:

(I) REASONABLY FORESEEABLE AND MATERIAL PHYSICAL OR FINANCIAL HARM TO ~~A CHILD~~ CHILDREN;

(II) SEVERE AND REASONABLY FORESEEABLE PSYCHOLOGICAL OR EMOTIONAL HARM TO ~~A CHILD~~ CHILDREN;

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

1 (IV) DISCRIMINATION AGAINST ~~A CHILD~~ CHILDREN BASED ON
2 RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, GENDER IDENTITY, SEX,
3 OR SEXUAL ORIENTATION.

4 (D) (1) “BIOMETRIC ~~INFORMATION~~ DATA” MEANS INFORMATION DATA
5 GENERATED BY AUTOMATIC MEASUREMENTS OF AN INDIVIDUAL’S BIOLOGICAL
6 CHARACTERISTICS.

7 (2) “BIOMETRIC ~~INFORMATION~~ DATA” INCLUDES:

8 (I) A FINGERPRINT;

9 (II) A VOICEPRINT;

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

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

13 (3) “BIOMETRIC ~~INFORMATION~~ DATA” DOES NOT INCLUDE:

14 (I) A DIGITAL OR PHYSICAL PHOTOGRAPH;

15 (II) AN AUDIO OR VIDEO RECORDING; OR

16 (III) DATA GENERATED FROM A DIGITAL OR PHYSICAL
17 PHOTOGRAPH, OR AN AUDIO OR VIDEO RECORDING, UNLESS THE DATA IS
18 GENERATED TO IDENTIFY A SPECIFIC INDIVIDUAL.

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

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

22 (2) “COLLECT” INCLUDES:

23 (I) ~~ACTIVELY OR PASSIVELY RECEIVING~~ RECEIVING DATA
24 FROM THE CONSUMER; AND

25 (II) OBSERVING THE CONSUMER’S BEHAVIOR.

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

1 **(2) “CONSUMER” DOES NOT INCLUDE AN INDIVIDUAL ACTING IN A**
2 **COMMERCIAL OR EMPLOYMENT CONTEXT OR AS AN EMPLOYER, AN OWNER, A**
3 **DIRECTOR, AN OFFICER, OR A CONTRACTOR OF A COMPANY, PARTNERSHIP, SOLE**
4 **PROPRIETORSHIP, NONPROFIT ORGANIZATION, OR ~~GOVERNMENT AGENCY~~**
5 **GOVERNMENTAL UNIT WHOSE COMMUNICATIONS OR TRANSACTIONS WITH THE**
6 **COVERED ENTITY OCCUR SOLELY WITHIN THE CONTEXT OF THAT INDIVIDUAL’S**
7 **ROLE WITH THE COMPANY, PARTNERSHIP, SOLE PROPRIETORSHIP, NONPROFIT**
8 **ORGANIZATION, OR ~~GOVERNMENT AGENCY~~ GOVERNMENTAL UNIT.**

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

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

14 **(II) COLLECTS CONSUMERS’ PERSONAL ~~INFORMATION DATA~~ OR**
15 **USES ANOTHER ENTITY TO COLLECT CONSUMERS’ PERSONAL ~~INFORMATION DATA~~**
16 **ON ITS BEHALF;**

17 **(III) ALONE, OR JOINTLY WITH ITS AFFILIATES OR**
18 **SUBSIDIARIES, DETERMINES THE PURPOSES AND MEANS OF THE PROCESSING OF**
19 **CONSUMERS’ PERSONAL DATA;**

20 **(IV) DOES BUSINESS IN THE STATE; AND**

21 **(V) 1. HAS ANNUAL GROSS REVENUES IN EXCESS OF**
22 **\$25,000,000, ADJUSTED EVERY ODD-NUMBERED YEAR TO REFLECT ADJUSTMENTS**
23 **IN THE CONSUMER PRICE INDEX;**

24 **2. ANNUALLY BUYS, RECEIVES, SELLS, OR SHARES THE**
25 **PERSONAL DATA OF 50,000 OR MORE CONSUMERS, HOUSEHOLDS, OR DEVICES,**
26 **ALONE OR IN COMBINATION WITH ITS AFFILIATES OR SUBSIDIARIES, FOR THE**
27 **COVERED ENTITY’S COMMERCIAL PURPOSES; OR**

28 **3. DERIVES AT LEAST 50% OF ITS ANNUAL REVENUES**
29 **FROM THE SALE OF CONSUMERS’ PERSONAL DATA.**

30 **(2) “COVERED ENTITY” INCLUDES:**

31 **(I) AN ENTITY THAT CONTROLS OR IS CONTROLLED BY A**
32 **BUSINESS AND THAT SHARES A NAME, SERVICE MARK, OR TRADEMARK THAT WOULD**
33 **CAUSE A REASONABLE CONSUMER TO UNDERSTAND THAT TWO OR MORE ENTITIES**
34 **ARE COMMONLY OWNED; AND**

1 (II) A JOINT VENTURE OR PARTNERSHIP COMPOSED OF
2 BUSINESSES IN WHICH EACH HAS AT LEAST A 40% INTEREST IN THE JOINT VENTURE
3 OR PARTNERSHIP.

4 (I) (1) "DARK PATTERN" MEANS A USER INTERFACE DESIGNED OR
5 MANIPULATED WITH THE PURPOSE OF SUBVERTING OR IMPAIRING USER
6 AUTONOMY, DECISION MAKING, OR CHOICE.

7 (2) "DARK PATTERN" INCLUDES ANY PRACTICE IDENTIFIED BY THE
8 FEDERAL TRADE COMMISSION AS A DARK PATTERN.

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

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

14 ~~(L) "DE-IDENTIFIED INFORMATION" MEANS DATA THAT CANNOT~~
15 ~~REASONABLY BE USED TO INFER INFORMATION ABOUT, OR OTHERWISE BE LINKED~~
16 ~~TO, AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL, IF THE COVERED ENTITY THAT~~
17 ~~POSSESSES THE DATA:~~

18 ~~(1) TAKES REASONABLE MEASURES TO ENSURE THAT THE DATA~~
19 ~~CANNOT BE LINKED WITH AN INDIVIDUAL;~~

20 ~~(2) PUBLICLY COMMITS TO:~~

21 ~~(i) MAINTAIN AND USE THE DATA IN DE-IDENTIFIED FORM;~~
22 ~~AND~~

23 ~~(ii) NOT ATTEMPT TO RE-IDENTIFY THE INFORMATION; AND~~

24 ~~(3) CONTRACTUALLY OBLIGATES ANY RECIPIENTS OF THE~~
25 ~~INFORMATION TO COMPLY WITH ALL PROVISIONS OF THIS SUBSECTION.~~

26 ~~(M) "DERIVED DATA" MEANS DATA THAT ARE DERIVED FROM OTHER DATA~~
27 ~~OR INFORMATION, OR OTHERWISE OBTAINED THROUGH CORRELATIONS,~~
28 ~~PREDICTIONS, ASSUMPTIONS, INFERENCES, OR CONCLUSIONS DRAWN FROM FACTS~~
29 ~~OR EVIDENCE OR ANOTHER SOURCE OF INFORMATION OR DATA ABOUT A CHILD OR~~
30 ~~A CHILD'S DEVICE.~~

1 ~~(N)~~ **(L)** “DIVISION” MEANS THE DIVISION OF CONSUMER PROTECTION
2 OF THE OFFICE OF THE ATTORNEY GENERAL.

3 ~~(O)~~ **(M)** (1) “ONLINE PRODUCT” MEANS AN ONLINE SERVICE, PRODUCT,
4 OR FEATURE.

5 (2) “ONLINE PRODUCT” DOES NOT INCLUDE:

6 (I) A TELECOMMUNICATIONS SERVICE, AS DEFINED IN 47
7 U.S.C. § 153;

8 (II) THE SALE, DELIVERY, OR USE OF A PHYSICAL PRODUCT
9 SOLD BY AN ONLINE RETAILER; OR

10 (III) A BROADBAND INTERNET ACCESS SERVICE, AS DEFINED IN
11 47 C.F.R. § 8.1(B).

12 ~~(P)~~ **(N)** (1) “PERSONAL DATA” MEANS INFORMATION THAT IS LINKED
13 OR REASONABLY ABLE TO BE LINKED, ~~ALONE OR IN COMBINATION WITH OTHER~~
14 ~~INFORMATION,~~ TO AN IDENTIFIED OR IDENTIFIABLE INDIVIDUAL.

15 (2) “PERSONAL DATA” ~~INCLUDES DERIVED DATA THAT OTHERWISE~~
16 ~~MEETS THE DEFINITION IN PARAGRAPH (1) OF THIS SUBSECTION~~ DOES NOT
17 INCLUDE:

18 (I) DE-IDENTIFIED DATA; OR

19 (II) PUBLICLY AVAILABLE INFORMATION.

20 ~~(Q)~~ **(O)** (1) “PRECISE GEOLOCATION” MEANS ~~ANY DATA THAT IS:~~

21 ~~(1) DERIVED FROM A DEVICE; AND~~

22 ~~(2) USED OR INTENDED TO BE USED TO LOCATE A CONSUMER~~
23 ~~GEOGRAPHICALLY WITHIN A RADIUS OF UP TO 1,850 FEET~~ INFORMATION DERIVED
24 FROM TECHNOLOGY THAT CAN PRECISELY AND ACCURATELY IDENTIFY THE
25 SPECIFIC LOCATION OF A CONSUMER WITHIN A RADIUS OF 1,750 FEET.

26 (2) “PRECISE GEOLOCATION” INCLUDES LATITUDE AND LONGITUDE
27 COORDINATES OF SIMILAR PRECISION TO THOSE PRODUCED BY A GLOBAL
28 POSITIONING SYSTEM OR A SIMILAR MECHANISM.

29 (3) “PRECISE GEOLOCATION” DOES NOT INCLUDE:

1 (I) THE CONTENT OF COMMUNICATIONS;

2 (II) DATA GENERATED BY OR CONNECTED WITH A UTILITY
 3 COMPANY'S ADVANCED METERING INFRASTRUCTURE; OR

4 (III) DATA GENERATED BY EQUIPMENT USED BY A UTILITY
 5 COMPANY.

6 ~~(R) (P)~~ (1) "PROCESS" MEANS ~~TO CONDUCT OR DIRECT ANY~~
 7 ~~OPERATION THAT MAY BE PERFORMED ON PERSONAL DATA, WHETHER OR NOT BY~~
 8 ~~AUTOMATED MEANS TO PERFORM AN OPERATION OR SET OF OPERATIONS BY~~
 9 ~~MANUAL OR AUTOMATED MEANS ON PERSONAL DATA.~~

10 (2) "PROCESS" INCLUDES:

11 ~~(I) COLLECTING PERSONAL DATA;~~

12 ~~(II) USING PERSONAL DATA;~~

13 ~~(III) STORING PERSONAL DATA;~~

14 ~~(IV) DISCLOSING PERSONAL DATA;~~

15 ~~(V) ANALYZING PERSONAL DATA;~~

16 ~~(VI) DELETING PERSONAL DATA;~~

17 ~~(VII) MODIFYING PERSONAL DATA; AND~~

18 ~~(VIII) OTHERWISE HANDLING PERSONAL DATA~~ COLLECTING,
 19 USING, STORING, DISCLOSING, ANALYZING, DELETING, OR MODIFYING PERSONAL
 20 DATA.

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

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

1 ~~(P)~~ **(R)** **(1)** “PUBLICLY AVAILABLE INFORMATION” MEANS
2 INFORMATION 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~~ DATA COLLECTED BY A COVERED ENTITY ABOUT A
10 CONSUMER WITHOUT THE CONSUMER’S KNOWLEDGE.

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

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

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

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

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

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

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

29 ~~(V)~~ **(T)** **(1)** “SELL” MEANS TO TRANSFER, RENT, RELEASE, DISCLOSE,
30 DISSEMINATE, MAKE AVAILABLE, OR OTHERWISE COMMUNICATE, WHETHER
31 ORALLY, IN WRITING, OR BY ELECTRONIC OR OTHER MEANS, A CONSUMER’S
32 PERSONAL DATA, IN A TRANSACTION FOR MONETARY OR OTHER VALUABLE
33 CONSIDERATION BETWEEN A COVERED ENTITY AND A THIRD PARTY.

1 (2) “SELL” DOES NOT INCLUDE:

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

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

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

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

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

16 ~~(W) (1) “SENSITIVE PERSONAL DATA” MEANS:~~

17 ~~(i) PERSONAL DATA THAT REVEALS A CONSUMER’S:~~

18 ~~1. SOCIAL SECURITY NUMBER, DRIVER’S LICENSE~~
19 ~~NUMBER, STATE IDENTIFICATION CARD NUMBER, OR PASSPORT NUMBER;~~

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

24 ~~3. PRECISE GEOLOCATION;~~

25 ~~4. RACIAL OR ETHNIC ORIGIN OR RELIGIOUS OR~~
26 ~~PHILOSOPHICAL BELIEFS;~~

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

29 ~~6. GENETIC DATA;~~

1 ~~(H) BIOMETRIC INFORMATION THAT IS OR MAY BE PROCESSED~~
 2 ~~FOR THE PURPOSE OF UNIQUELY IDENTIFYING A CONSUMER;~~

3 ~~(HH) PERSONAL DATA COLLECTED AND ANALYZED CONCERNING~~
 4 ~~A CONSUMER'S HEALTH; OR~~

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

7 ~~(2) "SENSITIVE PERSONAL DATA" DOES NOT INCLUDE PUBLICLY~~
 8 ~~AVAILABLE INFORMATION.~~

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

14 (1) SELLING OR SHARING THE PERSONAL DATA;

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

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

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

28 ~~(Y)~~ (V) "SHARE" MEANS TO RENT, RELEASE, DISSEMINATE, MAKE
 29 AVAILABLE, TRANSFER, OR OTHERWISE COMMUNICATE, WHETHER ORALLY, IN
 30 WRITING, OR BY ELECTRONIC OR OTHER MEANS, A CONSUMER'S PERSONAL DATA TO
 31 A THIRD PARTY FOR CROSS-CONTEXT BEHAVIORAL ADVERTISING WHETHER OR NOT
 32 FOR MONETARY OR OTHER VALUABLE CONSIDERATION, INCLUDING IN A
 33 TRANSACTION BETWEEN A COVERED ENTITY AND A THIRD PARTY FOR TARGETED
 34 ADVERTISING FOR THE BENEFIT OF A COVERED ENTITY IN WHICH NO MONEY IS
 35 EXCHANGED.

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

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

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

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

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

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

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

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

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

14-4602.

THIS SUBTITLE DOES NOT APPLY TO:

(1) DATA SUBJECT TO A STATUTE OR REGULATION IDENTIFIED UNDER ITEM (1) OF THIS ITEM THAT IS CONTROLLED BY A COVERED ENTITY OR SERVICE PROVIDER THAT IS:

(I) REQUIRED TO COMPLY WITH:

1. TITLE V OF THE FEDERAL GRAMM-LEACH-BLILEY ACT;

1 **2. THE FEDERAL HEALTH INFORMATION TECHNOLOGY**
 2 **FOR ECONOMIC AND CLINICAL HEALTH ACT; OR**

3 **3. REGULATIONS PROMULGATED UNDER § 264(C) OF**
 4 **THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996; AND**

5 **(II) IN COMPLIANCE WITH THE INFORMATION SECURITY**
 6 **REQUIREMENTS OF APPLICABLE STATUTES OR REGULATIONS IDENTIFIED IN ITEM**
 7 **(I) OF THIS ITEM; OR ~~PROTECTED HEALTH INFORMATION THAT IS COLLECTED BY A~~**
 8 **~~COVERED ENTITY OR BUSINESS ASSOCIATION GOVERNED BY THE PRIVACY~~**
 9 **~~SECURITY AND BREACH NOTIFICATION RULES IN 45 C.F.R. PARTS 160 AND 164,~~**
 10 **~~ESTABLISHED UNDER THE FEDERAL HEALTH INSURANCE PORTABILITY AND~~**
 11 **~~ACCOUNTABILITY ACT OF 1996 AND THE FEDERAL HEALTH INFORMATION~~**
 12 **~~TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT;~~**

13 **~~(2) A COVERED ENTITY GOVERNED BY THE PRIVACY SECURITY AND~~**
 14 **~~BREACH NOTIFICATION RULES IN 45 C.F.R. PARTS 160 AND 164, ESTABLISHED~~**
 15 **~~UNDER THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY~~**
 16 **~~ACT OF 1996 AND THE FEDERAL HEALTH INFORMATION TECHNOLOGY FOR~~**
 17 **~~ECONOMIC AND CLINICAL HEALTH ACT, TO THE EXTENT THAT THE COVERED~~**
 18 **~~ENTITY MAINTAINS PATIENT INFORMATION IN THE SAME MANNER AS MEDICAL~~**
 19 **~~INFORMATION OR PROTECTED HEALTH INFORMATION AS DESCRIBED IN ITEM (1) OF~~**
 20 **~~THIS SECTION; OR~~**

21 **~~(3)~~ (2) INFORMATION COLLECTED AS PART OF A CLINICAL TRIAL**
 22 **SUBJECT TO THE FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS,**
 23 **IN ACCORDANCE WITH:**

24 **(I) GOOD CLINICAL PRACTICE GUIDELINES ISSUED BY THE**
 25 **INTERNATIONAL COUNCIL FOR HARMONISATION OF TECHNICAL REQUIREMENTS**
 26 **FOR PHARMACEUTICALS FOR HUMAN USE; OR**

27 **(II) HUMAN SUBJECT PROTECTION REQUIREMENTS OF THE**
 28 **U.S. FOOD AND DRUG ADMINISTRATION.**

29 **14-4603.**

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

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

1 (2) COVERED ENTITIES THAT DEVELOP AND PROVIDE ONLINE
2 ~~SERVICES PRODUCTS~~ THAT CHILDREN ARE REASONABLY LIKELY TO ACCESS SHALL
3 ENSURE THE BEST INTERESTS OF CHILDREN WHEN DESIGNING, DEVELOPING, AND
4 PROVIDING THOSE ONLINE PRODUCTS;

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

8 (4) IF A CONFLICT ARISES BETWEEN COMMERCIAL INTERESTS AND
9 THE BEST INTERESTS OF CHILDREN, COVERED ENTITIES THAT DEVELOP ONLINE
10 PRODUCTS LIKELY TO BE ACCESSED BY CHILDREN SHALL ~~GIVE PRIORITY TO~~
11 PRIORITIZE THE PRIVACY, SAFETY, AND WELL-BEING OF CHILDREN ~~OVER THOSE~~
12 ~~COMMERCIAL INTERESTS; AND;~~

13 (5) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO ~~INFRINGE ON~~
14 ~~THE EXISTING RIGHTS AND FREEDOMS OF CHILDREN~~ REQUIRE A COVERED ENTITY
15 TO MONITOR OR CENSOR THIRD-PARTY CONTENT OR OTHERWISE IMPACT THE
16 EXISTING RIGHTS AND FREEDOMS OF ANY PERSON; AND

17 (6) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO
18 DISCRIMINATE AGAINST CHILDREN ON THE BASIS OF RACE, COLOR, RELIGION,
19 NATIONAL ORIGIN, DISABILITY, GENDER IDENTITY, SEX, OR SEXUAL ORIENTATION.

20 14-4604.

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

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

28 (I) MEETS THE CRITERIA UNDER PARAGRAPH (1) OF THIS
29 SUBSECTION;

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

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

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

6 **(B) THE DATA PROTECTION IMPACT ASSESSMENT SHALL:**

7 **(1) IDENTIFY THE PURPOSE OF THE ONLINE PRODUCT;**

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

9 **(3) DETERMINE WHETHER THE ONLINE PRODUCT IS DESIGNED ~~AND~~**
10 **~~OFFERED~~ IN A MANNER CONSISTENT WITH THE BEST INTERESTS OF CHILDREN**
11 **REASONABLY LIKELY TO ACCESS THE ONLINE PRODUCT THROUGH CONSIDERATION**
12 **OF:**

13 **(I) WHETHER THE DATA MANAGEMENT OR PROCESSING**
14 **PRACTICES OF THE ONLINE PRODUCT COULD LEAD TO CHILDREN EXPERIENCING OR**
15 **BEING TARGETED BY CONTACTS THAT WOULD RESULT IN:**

16 **1. REASONABLY FORESEEABLE AND MATERIAL**
17 **PHYSICAL OR FINANCIAL HARM TO ~~THE CHILD~~ CHILDREN;**

18 **2. REASONABLY FORESEEABLE AND EXTREME**
19 **PSYCHOLOGICAL OR EMOTIONAL HARM TO ~~THE CHILD~~ CHILDREN;**

20 **3. A HIGHLY OFFENSIVE INTRUSION ON ~~THE CHILD'S~~**
21 **CHILDREN'S REASONABLE EXPECTATION OF PRIVACY; OR**

22 **4. DISCRIMINATION AGAINST ~~THE CHILD~~ CHILDREN**
23 **BASED ON RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, GENDER**
24 **IDENTITY, SEX, OR SEXUAL ORIENTATION;**

25 **(II) WHETHER THE DATA MANAGEMENT OR PROCESSING**
26 **PRACTICES OF THE ONLINE PRODUCT COULD PERMIT CHILDREN TO ~~WITNESS,~~**
27 **PARTICIPATE IN, OR BE SUBJECT TO CONDUCT THAT WOULD RESULT IN:**

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

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

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

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

6 (III) WHETHER THE DATA MANAGEMENT OR PROCESSING
7 PRACTICES OF THE ONLINE PRODUCT ARE REASONABLY EXPECTED TO ALLOW
8 CHILDREN BECOMING PARTY TO OR EXPLOITED BY A CONTRACT THROUGH THE
9 ONLINE PRODUCT THAT WOULD RESULT IN:

10 1. REASONABLY FORESEEABLE AND MATERIAL
11 PHYSICAL OR FINANCIAL HARM TO ~~THE CHILD~~ CHILDREN;

12 2. REASONABLY FORESEEABLE AND EXTREME
13 PSYCHOLOGICAL OR EMOTIONAL HARM TO ~~THE CHILD~~ CHILDREN;

14 3. A HIGHLY OFFENSIVE INTRUSION ON ~~THE CHILD'S~~
15 CHILDREN'S REASONABLE EXPECTATION OF PRIVACY; OR

16 4. DISCRIMINATION AGAINST ~~THE CHILD~~ CHILDREN
17 BASED ON RACE, COLOR, RELIGION, NATIONAL ORIGIN, DISABILITY, GENDER
18 IDENTITY, SEX, OR SEXUAL ORIENTATION;

19 (IV) ~~WHETHER TARGETED ADVERTISING SYSTEMS USED BY THE~~
20 ~~ONLINE PRODUCT 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 ~~CHILDREN'S 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 (v) WHETHER THE ONLINE PRODUCT USES SYSTEM DESIGN
31 FEATURES TO INCREASE, SUSTAIN, OR EXTEND THE USE OF THE ONLINE PRODUCT,

1 INCLUDING THE AUTOMATIC PLAYING OF MEDIA, REWARDS FOR TIME SPENT, AND
2 NOTIFICATIONS THAT WOULD RESULT IN:

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

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

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

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

12 ~~(VI)~~ (V) WHETHER, HOW, AND FOR WHAT PURPOSE THE
13 ONLINE PRODUCT COLLECTS OR PROCESSES ~~SENSITIVE~~ PERSONAL DATA OF
14 CHILDREN AND WHETHER THOSE PRACTICES WOULD RESULT IN:

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

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

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

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

24 ~~(VII)~~ (VI) WHETHER AND HOW DATA COLLECTED TO
25 UNDERSTAND THE EXPERIMENTAL IMPACT OF THE PRODUCT REVEALS DATA
26 MANAGEMENT OR DESIGN PRACTICES THAT WOULD RESULT IN:

27 1. REASONABLY FORESEEABLE AND MATERIAL
28 PHYSICAL OR FINANCIAL HARM TO ~~THE CHILD~~ CHILDREN;

29 2. REASONABLY FORESEEABLE AND EXTREME
30 PSYCHOLOGICAL OR EMOTIONAL HARM TO ~~THE CHILD~~ CHILDREN;

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

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

6 ~~(VII)~~ (VII) WHETHER ALGORITHMS USED BY THE ONLINE
7 PRODUCT WOULD RESULT IN:

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

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

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

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

17 ~~(IX)~~ (VIII) ANY OTHER FACTOR THAT MAY INDICATE THAT THE
18 ONLINE PRODUCT IS DESIGNED ~~AND OFFERED~~ IN A MANNER THAT IS INCONSISTENT
19 WITH THE BEST INTERESTS OF CHILDREN; AND

20 (4) INCLUDE A DESCRIPTION OF STEPS THAT THE COVERED ENTITY
21 HAS TAKEN AND WILL TAKE TO COMPLY WITH THE DUTY TO ACT IN A MANNER
22 CONSISTENT WITH THE BEST INTERESTS OF CHILDREN.

23 (C) (1) A DATA PROTECTION IMPACT ASSESSMENT PREPARED BY A
24 COVERED ENTITY FOR THE PURPOSE OF COMPLIANCE WITH ANY OTHER LAW
25 COMPLIES WITH THIS SECTION IF THE ASSESSMENT MEETS THE REQUIREMENTS OF
26 THIS SECTION.

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

30 14-4605.

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

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

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

6 (3) ~~CONFIGURE~~ NOTWITHSTANDING ANY OTHER LAW, CONFIGURE
7 ALL DEFAULT PRIVACY SETTINGS PROVIDED TO CHILDREN BY THE ONLINE
8 PRODUCT TO OFFER A HIGH LEVEL OF PRIVACY, UNLESS THE COVERED ENTITY CAN
9 DEMONSTRATE A COMPELLING REASON THAT A DIFFERENT SETTING IS IN THE BEST
10 INTERESTS OF CHILDREN;

11 (4) PROVIDE ANY PRIVACY INFORMATION, TERMS OF SERVICE,
12 POLICIES, AND COMMUNITY STANDARDS CONCISELY, PROMINENTLY, AND USING
13 CLEAR LANGUAGE SUITED TO THE AGE OF CHILDREN LIKELY TO ACCESS THE
14 ONLINE PRODUCT; AND

15 (5) PROVIDE PROMINENT, ACCESSIBLE, AND RESPONSIVE TOOLS TO
16 HELP CHILDREN OR THEIR PARENTS OR GUARDIANS, IF APPLICABLE, EXERCISE
17 THEIR PRIVACY RIGHTS AND REPORT CONCERNS.

18 14-4606.

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

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

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

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

29 (II) 1. PROFILING IS NECESSARY TO PROVIDE THE
30 REQUESTED ONLINE PRODUCT, AND IS DONE ONLY WITH RESPECT TO THE ASPECTS
31 OF THE ONLINE PRODUCT THAT THE CHILD IS ACTIVELY AND KNOWINGLY ENGAGED
32 WITH; OR

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

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

6 **(4) PROCESS THE PERSONAL DATA OF A CHILD END USER FOR ANY**
7 **REASON OTHER THAN A REASON FOR WHICH THAT PERSONAL DATA WAS**
8 **COLLECTED;**

9 **(5) PROCESS ANY PRECISE GEOLOCATION ~~INFORMATION~~ DATA OF A**
10 **CHILD BY DEFAULT, UNLESS:**

11 **(I) THE COLLECTION OF THE PRECISE GEOLOCATION**
12 **~~INFORMATION~~ DATA IS STRICTLY NECESSARY FOR THE COVERED ENTITY TO**
13 **PROVIDE THE ONLINE PRODUCT; AND**

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

16 **(6) PROCESS ANY PRECISE GEOLOCATION ~~INFORMATION~~ DATA OF A**
17 **CHILD WITHOUT PROVIDING AN OBVIOUS SIGNAL TO THE CHILD FOR THE DURATION**
18 **THAT THE PRECISE GEOLOCATION ~~INFORMATION~~ DATA IS BEING COLLECTED;**

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

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

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

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

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

30 **(9) ALLOW A PERSON OTHER THAN A CHILD'S PARENT OR GUARDIAN**
31 **TO MONITOR THE CHILD'S ONLINE ACTIVITY WITHOUT FIRST NOTIFYING THE CHILD**
32 **AND THE CHILD'S PARENT OR GUARDIAN.; ~~OR~~**

1 ~~(9) ALLOW A CHILD'S PARENT, GUARDIAN, OR ANY OTHER CONSUMER~~
2 ~~TO MONITOR THE CHILD'S ONLINE ACTIVITY OR TRACK THE CHILD'S LOCATION,~~
3 ~~WITHOUT PROVIDING AN OBVIOUS SIGNAL TO THE CHILD WHEN THE CHILD IS BEING~~
4 ~~MONITORED OR TRACKED.~~

5 (B) A COVERED ENTITY THAT PROVIDES AN ONLINE PRODUCT THAT IS
6 ACCESSED OR REASONABLY LIKELY TO BE ACCESSED BY CHILDREN MAY ALLOW A
7 CHILD'S PARENT OR GUARDIAN TO MONITOR THE CHILD'S ONLINE ACTIVITY OR
8 TRACK THE CHILD'S LOCATION, WITHOUT PROVIDING AN OBVIOUS SIGNAL TO THE
9 CHILD WHEN THE CHILD IS BEING MONITORED OR TRACKED.

10 (C) IN MAKING A DETERMINATION AS TO WHETHER AN ONLINE PRODUCT IS
11 REASONABLY LIKELY TO BE ACCESSED BY CHILDREN, A COVERED ENTITY MAY NOT
12 COLLECT OR PROCESS ANY PERSONAL DATA BEYOND WHAT IS REASONABLY
13 NECESSARY TO MAKE THE DETERMINATION.

14 14-4607.

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

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

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

27 (C) TO THE EXTENT THAT ANY DISCLOSURE REQUIRED UNDER SUBSECTION
28 (B) OF THIS SECTION INCLUDES INFORMATION SUBJECT TO ATTORNEY-CLIENT
29 PRIVILEGE OR WORK-PRODUCT PROTECTION, THE DISCLOSURE MAY NOT
30 CONSTITUTE A WAIVER OF THAT PRIVILEGE OR PROTECTION.

31 14-4608.

32 (A) A VIOLATION OF THIS SUBTITLE:

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

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

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

5 **(1) \$2,500 PER AFFECTED CHILD FOR EACH NEGLIGENT VIOLATION;**
6 **AND**

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

9 **(C) THE DIVISION SHALL PAY ALL FINES, PENALTIES, AND EXPENSES**
10 **COLLECTED BY THE DIVISION UNDER THIS SUBSECTION INTO THE GENERAL FUND**
11 **WITH THE INTENT THAT FINES, PENALTIES, AND EXPENSES BE USED TO FULLY**
12 **OFFSET ANY COSTS INCURRED BY THE DIVISION IN CONNECTION WITH THIS**
13 **SUBTITLE.**

14 **14-4609.**

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

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

22 **(C) A COVERED ENTITY MAY NOT BE LIABLE FOR A CIVIL PENALTY FOR A**
23 **VIOLATION FOR WHICH NOTICE IS GIVEN UNDER SUBSECTION (A) OF THIS SECTION**
24 **IF THE COVERED ENTITY:**

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

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

1 **(3) CURES THE VIOLATION SPECIFIED IN THE DIVISION’S NOTICE**
2 **WITHIN 90 DAYS AFTER ISSUANCE OF THE NOTICE UNDER SUBSECTION (A) OF THIS**
3 **SECTION;**

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

6 **(5) TAKES MEASURES TO PREVENT ANY FUTURE VIOLATION THAT**
7 **THE DIVISION AGREED TO BE SUFFICIENT.**

8 **14-4610.**

9 **NOTHING IN THIS SUBTITLE MAY BE INTERPRETED OR CONSTRUED TO:**

10 **(1) PROVIDE A PRIVATE RIGHT OF ACTION UNDER THIS SUBTITLE OR**
11 **ANY OTHER LAW;**

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

14 **(3) PREVENT OR PRECLUDE A CHILD FROM DELIBERATELY OR**
15 **INDEPENDENTLY SEARCHING FOR OR SPECIFICALLY REQUESTING CONTENT; OR**

16 **(4) REQUIRE A COVERED ENTITY TO IMPLEMENT AN AGE-GATING**
17 **REQUIREMENT.**

18 **14-4611.**

19 **NOTWITHSTANDING ANY OTHER LAW, A DATA PROTECTION IMPACT**
20 **ASSESSMENT IS PROTECTED AS CONFIDENTIAL AND SHALL BE EXEMPT FROM**
21 **PUBLIC DISCLOSURE, INCLUDING UNDER THE MARYLAND PUBLIC INFORMATION**
22 **ACT.**

23 **14-4612.**

24 **(A) WHEREVER POSSIBLE, LAW RELATING TO CONSUMERS’ PERSONAL**
25 **DATA SHOULD BE CONSTRUED TO HARMONIZE WITH THE PROVISIONS OF THIS**
26 **SUBTITLE.**

27 **(B) IN THE EVENT OF A CONFLICT BETWEEN OTHER LAWS AND THIS**
28 **SUBTITLE, THE PROVISIONS OF THE LAW THAT AFFORD THE GREATEST PROTECTION**
29 **FOR THE RIGHT OF PRIVACY FOR CONSUMERS SHALL CONTROL.**

30 **14-4613.**

1 **THIS SUBTITLE MAY BE CITED AS THE MARYLAND AGE-APPROPRIATE**
2 **DESIGN CODE ACT.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.