

SUSAN C. LEE
Legislative District 16
Montgomery County

MAJORITY WHIP

Judicial Proceedings Committee

Joint Committee on
Cybersecurity, Information Technology,
and Biotechnology

Chair
Maryland Legislative Asian American
and Pacific Islander Caucus

President Emeritus
Women Legislators of the
Maryland General Assembly, Inc.



James Senate Office Building
11 Bladen Street, Room 223
Annapolis, Maryland 21401
410-841-3124 · 301-858-3124
800-492-7122 Ext. 3124
Susan.Lee@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

January 26, 2022

Sponsor Testimony - FAVORABLE - SB11

The Maryland Online Consumer Protection and Child Safety Act

[SB11](#) is essential 21st century online privacy legislation that will enable Marylanders to better understand, protect and control what and how their personal data is being collected, shared, sold, or used by private companies. Most importantly, the bill will protect the personal information being collected on children, our most precious and vulnerable resource.

After the General Data Privacy Regulation (GDPR) and the California Consumer Protection Act (CCPA) went into force in Europe and California respectively, Maryland's consumers are still left out in the cold, and to the whims of the tech giants. This bill will allow consumers to correct and delete personal information before it gets sold to third parties on the web, breached by domestic hackers, or stolen from state-sponsored actors. Most importantly, it will increase children's privacy protections by prohibiting the collection or sale of their data. The main focus of this bill is to give the consumers protections against unfair trade practices, and control over their data and corresponding privacy.

The current "notice and choice" systems provided by businesses utilize a complex language, which places significant burdens on the consumer to read and understand different privacy policies. This bill poses simple language and the clear choice to "opt out" to appear on the home page, or allow users to use third party programs to set their preferences across the board. There are many other provisions the directly mirror California's law, which is in force at this moment, without serious problems. This is not the first time this language has been proposed in Maryland, but there is one addition to make this more user-friendly for consumers and businesses. The [global privacy control provision](#) expressly provided in this bill allows third parties to be used for setting privacy preferences. This will make it easier for all to comply and has already been utilized successfully in California.

The rampant growth of data giants and their deliberate data selling techniques has led to an increase of identity theft, whereupon thieves use the information to induce harm to consumers

while creating havoc within communities. Unfortunately, there are little to no protections for consumers, who are unaware of the whereabouts of their personal information and the intentions of those who have in their position important personal information. Information is power, and corporations have valued personal information data [more than all the oil in Earth](#). So why can't the true owners of their own data protect their own privacy? - Money and Power.

[Cambridge Analytica](#) was the catalyst for this legislation back in 2019, when I sponsored the first version of this legislation for Maryland, but so much has changed in the personal information landscape since that time, and since the passage of the federal standards. The internet is a beehive of activity for children and the collection of their information is unbridled by COPPA, which only extends to children under 13, despite the reality that most harmful activities children participate in likely fall within the cracks for children ages 13-15.

Cambridge Analytica focused on relatively broad info about a personality trait analysis, but you can determine that just based on their click pattern now as Gloria Mark from UC Irvine has been able to calculate up to an 80% accuracy. So all of the harm created with Brexit and the 2016 election could be done with more broadly available personal information, and much more targeted personal information is available to analyze your facial expressions to market items, or ideas. The concern is that the info is being collected without any friction from government. The Maryland State government currently treats this info as if it was completely harmless.

SB 11 bill brings us up to date with California and European countries that prioritize the protection of their children's data. This legislation accomplishes this goal in a uniquely Maryland manner through the existing authority of the Office of Attorney General Consumer Protection Division under title 13 of the Commercial Law Article. We merely expand that existing authority to online consumer protection that was not envisioned when title 13 was discussed as a legislative issue. There are many ways to move forward, but no reason to stand still. The time for pontification whether to act at the state level has passed. Other states are joining California, but not all laws are equal.

My oral testimony included a clip from [The Social Dilemma](#) to highlight one harm children suffer when their data is used against themselves. This is merely one avenue for targeted ads and manipulation of data to reach children, but certainly the most important one at this point in time because the amount they interact with the platform. Human psychology is being used to maximize profits, and the failure to recognize the components that go into that manipulation are tying governments' hands behind their backs. If the algorithms companies use are business confidential, shouldn't our info be personally confidential? If not shouldn't we at least acknowledge that children can't consent to a contract and shouldn't to info that can harm them?

If you have time, please review this preview as well because it highlights what damage can be done to average citizens with the corruption of their data for nefarious purposes. As [The Great Hack](#) highlights, Cambridge Analytica was horrifying because it demonstrated that enough data points can change behavior not only when it concerns commerce, but also political actions. The book "[The Age of Surveillance Capitalism](#)" – captures the profit seeking motives of data brokers and related digital platforms around the world in stark terms that should frighten us all. As China moves towards a heightened Surveillance Government, and most of the states and the federal government keep their heads in the sand, the advertisement bombardment is only the start. We are losing the war waged against the minds of our children and not even showing up to the battlefield. The states have the police powers to act, and COPPA clearly allows states to

increase enforcement, so why aren't we acting now, in 2022? Companies can comply with CCPA and the GDPR, so why can't they comply with the Maryland Online Consumer Protection and Child Safety Act?

Jeanna Matthews will join the hearing after the sponsor panel to explain her [recent nationally syndicated article](#) and how our bill would fit into the solution that social media drives people to extremes. Children are specifically vulnerable to manipulation, but the dangers spread to us all, as we have witnessed with the impacts to our health care system when false rumors are spread about vaccines and masks. January 6th marks a new reason to be concerned, as the actual historical facts of what lead up the attack are questioned to a degree only possible with social media, and the circular flow of information reinforces objectively fake news. When all your feeds reinforce what you already feel, the outrage competition seizes control of our political system. Cancel culture is also a part of this, because now people can be cancelled for posts they made when they were teenagers. Furthermore, anyone interested in state surveillance should be concerned about the ability to use state secrets to protect the collection of personal information from businesses that feed information to our intelligence agencies. Who has a check on them if our data isn't our own? Is this the world you want to raise a child?

We in the Maryland General Assembly have a responsibility to protect our citizens, especially our children, at a time when Congress has been unable to move forward on this and many other paramount pieces of legislation. Senate Bill 11 will make Maryland the leader in moving consumer protection into the 21st century, not only in our state, but nationwide. For these reasons, I respectfully request a favorable report on SB 11.