

Committee:	House Economic Matters Committee
Bill Number:	SB 541 – Maryland Online Data Privacy Act of 2024
Hearing Date:	March 28, 2024
Position:	Support

The Women's Law Center of Maryland (WLC) strongly supports *Senate Bill 541 – Maryland Online Data Privacy Act of 2024*. The bill provides privacy protections for consumer information collected online. The bill generally prohibits the disclosure of consumer information collected by online vendors, unless the disclosure is essential to provide the service offered by the vendor.

In recent years, there has been a proliferation of online platforms, including apps, that collect health and other sensitive personal information. Consumers may have an expectation of privacy, as the public generally thinks that health information is protected by the Health Insurance Portability and Accountability Act (HIPAA). However, many online platforms are not subject to HIPAA, as HIPAA only protects the electronic health records of health care providers and related business entities, such as health insurers.

Online platforms generally may set their own privacy policies. These policies, even when disclosed, may be challenging for consumers to navigate and fully understand their implications. WLC believes that the lack of privacy standards may compromise consumers' safety and wellbeing; and in some cases, redisclosure of information may create legal peril for consumers.

There has been an increase in the popularity and use of health and wellbeing apps. Consumers can use apps to track their menstrual periods, sleep cycles, and mental health. However, most of these apps are not subject to HIPAA, leaving consumers at the mercy of the privacy policies set by the vendors. This problem has gained more attention in the wake of the *Dobbs* decision, as information from period tracking apps and geofencing data could be used by prosecute people leaving states that ban abortion to seek care elsewhere. The Federal Trade Commission has fined some period tracking apps for redisclosure of health information.^{i, ii} However, an individual state has no authority to protect its own residents unless the state adopts specific statutory protections.

WLC supports this legislation because it would allow Maryland to protect the privacy of consumer information. Online vendors would be restricted, except in limited circumstances, from sharing or redisclosing sensitive consumer data without the express consent of the consumer. The legislation also provides additional protection for consumers seeking reproductive and behavioral health services by prohibiting the use of geofencing data to track those consumers.

We ask for a favorable report. If there is additional information that we can provide, please contact Robyn Elliott at relliott@policypartners.net.

The Women’s Law Center of Maryland is a private, non-profit, legal services organization that serves as a leading voice for justice and fairness for women. It advocates for the rights of women through legal assistance to individuals and strategic initiatives to achieve systemic change, working to ensure physical safety, economic security, and bodily autonomy for women in Maryland.

ⁱ <https://www.ftc.gov/news-events/news/press-releases/2023/05/ovulation-tracking-app-premom-will-be-barred-sharing-health-data-advertising-under-proposed-ftc>

ⁱⁱ <https://www.ftc.gov/legal-library/browse/cases-proceedings/192-3133-flo-health-inc>