

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1388

By: Hasenbeck

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6 AS INTRODUCED

7 An Act relating to children; providing definitions;
8 directing covered entities to complete and review
9 impact assessments; requiring covered entities to
provide impact assessments to Attorney General;
requiring certain default privacy settings; directing
10 covered entities to publicly provide certain
information in clear language suited to age of
children accessing product; requiring entity provide
certain tools; providing information required for
data protection impact assessment; requiring covered
11 entity act in best interest of children; clarifying
data protection impact assessments are confidential
12 and not subject to public disclosure; clarifying
certain information disclosed does not waive
privilege or protection; permitting assessments that
complies with other law; permitting single data
protection impact assessment for similar processing
operations; requiring first impact assessment by
13 certain date; prohibiting covered entities from
processing personal data of a child in way that is
inconsistent with best interest of child; prohibiting
covered entities from profiling a child unless listed
exception applies; prohibiting covered entities from
processing personal data of child that is not
necessary to provide online product; prohibiting
processing certain personal data for purposes other
than reason collected; prohibiting the processing of
14 certain geolocation information of children;
prohibiting covered entities from using dark patterns
for certain purpose; requiring covered entity signal
a child when being monitored or tracked; providing
penalties for a covered entity that violates this
act; permitting only Attorney General to initiate
enforcement actions; directing Attorney General
15 provide notice to covered entities in substantial
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1 compliance; directing covered entities notify
2 Attorney General when certain violations are cured;
3 clarifying act does not serve as basis for private
4 right of action; providing list of entities this act
5 does not apply to; clarifying act does not impose
6 certain liability; clarifying act does not prevent or
7 preclude a child from deliberately searching for
8 content; clarifying act does not require covered
9 entity to restrict access to online products based
solely on age; clarifying act applies to certain
covered entities; clarifying that act does not apply
to online products, services, or features not
accessible by public after certain date; providing
for codification; and providing an effective date.

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. NEW LAW A new section of law to be codified

12 in the Oklahoma Statutes as Section 8001 of Title 10, unless there
13 is created a duplication in numbering, reads as follows:

14 As used in this act:

15 1. "Affiliate" means a legal entity that controls, is
16 controlled by or is under common control with another legal entity;

17 2. "Age-appropriate" means a recognition of the distinct needs
18 and diversities of children in the following age ranges:

- 19 a. up to five (5) years of age,
20 b. six (6) to nine(9) years of age,
21 c. ten (10) to twelve (12) years of age,
22 d. thirteen (13) to fifteen (15) years of age, and
23 e. sixteen (16) to seventeen (17) years of age;

1 3. "Best interest of children" means the use, by a covered
2 entity, of the personal data of a child or the design of an online
3 product, service or feature in a way that:

- 4 a. will not benefit the covered entity to the detriment
5 of the child, and
- 6 b. will not result in:
- 7 (1) reasonably foreseeable and material physical or
8 financial harm to the child,
- 9 (2) reasonably foreseeable and severe psychological
10 or emotional harm to the child,
- 11 (3) a highly offensive intrusion on the reasonable
12 privacy expectations of the child, or
- 13 (4) discrimination against the child based upon race,
14 color, religion, national origin, disability, sex
15 or sexual orientation;

16 4. "Child" means a consumer who is under eighteen (18) years of
17 age;

18 5. "Collect" means buying, renting, gathering, obtaining,
19 receiving, or accessing personal data pertaining to a consumer by
20 any means, including receiving personal data from the consumer,
21 either actively or passively, or by observing the consumer's
22 behavior;

1 6. "Common branding" means a shared name, service mark or
2 trademark that the average consumer would understand that two or
3 more entities commonly own;

4 7. "Consumer" means a natural person who resides in Oklahoma,
5 however identified, including by a unique identifier;

6 8. "Control" or "controlled" means:

- 7 a. ownership of or the power to vote more than fifty
8 percent (50%) of the outstanding shares of any class
9 of voting security of a covered entity,
- 10 b. control in any manner over the election of a majority
11 of the directors or of individuals exercising similar
12 functions of a covered entity, or
- 13 c. the power to exercise a controlling influence over the
14 management of a covered entity;

15 9. "Covered entity" means a sole proprietorship, partnership,
16 limited liability company, corporation, association, affiliate, or
17 other legal entity that is organized or operated for the profit or
18 financial benefit of the entity's shareholders or other owners and
19 that offers online products, services or features to individuals in
20 Oklahoma and processes children's personal data;

21 10. "Dark pattern" means a user interface designed or
22 manipulated with the purpose of subverting or impairing user
23 autonomy, decision making, or choice;

1 11. "Data protection impact assessment" means a systematic
2 survey to assess compliance with the duty to act in the best
3 interest of children;

4 12. "Default" means a preselected option adopted by a covered
5 entity for an online product, service, or feature;

6 13. "De-identified" means information that cannot reasonably
7 be used to infer information about, or otherwise be linked to, an
8 identified or identifiable individual, if a covered entity that
9 possesses that information:

- 10 a. takes reasonable measures to ensure that such
11 information cannot be associated with an individual,
- 12 b. publicly commits to process such information only in a
13 de-identified fashion and not attempt to reidentify
14 such information, and
- 15 c. contractually obligates any recipients of such
16 information to satisfy the criteria set forth in this
17 subsection;

18 14. "Derived data" means data that is created by the
19 derivation of information, data, assumptions, correlations,
20 inferences, predictions, or conclusions from facts, evidence, or
21 another source of information or data about a child or a child's
22 device;

23 15. "Personal data" means any information, including derived
24 data, that is linked or reasonably linkable, alone or in combination

1 with other information, to an identified or identifiable individual.
2 Personal data does not include de-identified information or publicly
3 available information;

4 16. "Precise geolocation" means any data that is derived from
5 a device and that is used or intended to be used to locate a
6 consumer within a geographic area that is equal to or less than the
7 area of a circle with a radius of one thousand eight hundred (1,800)
8 feet;

9 17. "Process" or "processing" means conduct or an operation
10 performed, whether by manual or automated means, on personal data or
11 on sets of personal data, such as the collection, use, storage,
12 disclosure, analysis, deletion, modification, or other handling of
13 personal data;

14 18. "Profiling" means automated processing of personal data
15 that uses personal data to evaluate certain aspects relating to a
16 natural person, including analyzing or predicting aspects concerning
17 a natural person's performance at work, economic situation, health,
18 personal preferences, interests, reliability, behavior, location, or
19 movements. Profiling does not include the processing of data that
20 does not result in an assessment or judgment about a natural person;

21 19. "Reasonably likely to be accessed" means an online
22 product, service or feature is accessed or is reasonably likely to
23 be accessed by children based on any of the following indicators:

- 1 a. the online product, service or feature is directed to
2 children as defined by the federal Children's Online
3 Privacy Protection Act of 1998,
4 b. the online product, service or feature is determined,
5 based on competent and reliable evidence regarding
6 audience composition, to be routinely accessed by a
7 significant number of children,
8 c. the online product, service or feature has
9 advertisements marketed to children,
10 d. the online product, service or feature is
11 substantially similar or the same as an online
12 product, service or feature subject to subparagraph b
13 of this paragraph,
14 e. a significant amount of the audience of the online
15 product, service or feature is determined, based on
16 internal company research, to be children, or
17 f. the covered entity knew or should have known that a
18 user is a child;

19 20. "Sell" means selling, renting, releasing, disclosing,
20 disseminating, making available, transferring, or otherwise
21 communicating orally, in writing or by electronic or other means, a
22 consumer's personal data by a covered entity to a third party for
23 monetary or other valuable consideration. Sell does not include:
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- 1 a. the disclosure of personal data to a third party who
2 processes the personal data on behalf of the covered
3 entity,
4 b. the disclosure of personal data to a third party with
5 whom the consumer has a direct relationship for
6 purposes of providing an online product, service or
7 feature requested by the consumer,
8 c. the disclosure or transfer of personal data to an
9 affiliate of the covered entity,
10 d. the disclosure of data that the consumer intentionally
11 made available to the general public via a channel of
12 mass media and did not restrict to a specific
13 audience, or
14 e. the disclosure or transfer of personal data to a third
15 party as an asset that is part of the completed or
16 proposed merger, acquisition, bankruptcy, or other
17 transaction in which the third party assumes control
18 of all or part of the covered entity's assets;

19 21. "Sensitive personal data" means personal data that

20 includes:

- 21 a. data revealing racial or ethnic origin, religious
22 beliefs, mental or physical health condition or
23 diagnosis, sex life, sexual orientation or citizenship
24 or immigration status,

- b. the processing of genetic or biometric data for the purpose of uniquely identifying an individual, or
- c. precise geolocation data;

22. "Share" means sharing, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing or by electronic or other means, a consumer's personal data by a covered entity to a third party for cross-context behavioral advertising, whether or not for monetary or other valuable consideration, including transactions between a covered entity and a third party for cross-context behavioral advertising for the benefit of a covered entity in which no money is exchanged; and

23. "Third party" means a person other than the consumer of the covered entity.

SECTION 2. NEW LAW A new section of law to be codified
the Oklahoma Statutes as Section 8002 of Title 10, unless there
created a duplication in numbering, reads as follows:

A. A covered entity shall:

1. Complete a data protection impact assessment for any online product, service or feature that is reasonably likely to be accessed and maintain documentation of the data protection impact assessment as long as the online product, service or feature is reasonably likely to be accessed;

1 2. Review all data protection impact assessments as necessary
2 to account for material changes to data processing pertaining to the
3 online product, service or feature;

4 3. Within five (5) business days of a written request by the
5 Attorney General, provide to the Attorney General a list of all data
6 protection impact assessments the covered entity has completed;

7 4. Within seven (7) business days of a written request by the
8 Attorney General, provide a data protection impact assessment to the
9 Attorney General pursuant to such a request; provided that the
10 Attorney General may, at the Attorney General's discretion, extend
11 the time allowed for a covered entity to produce a data protection
12 impact assessment;

13 5. Configure all default privacy settings provided to children
14 by the online product, service or feature to settings that offer a
15 high level of privacy, unless the covered entity can demonstrate a
16 compelling reason that a different setting is in the best interest
17 of children;

18 6. Publicly provide privacy information, terms of service,
19 policies, and community standards in a prominent, precise manner and
20 use clear language suited to the age of children reasonably likely
21 to access that online product, service or feature; and

22 7. Publicly provide prominent, accessible and responsive tools
23 to help a child or, if applicable, the child's parent or guardian,
24 exercise the child's privacy rights and report concerns.

1 B. The data protection impact assessment required by this
2 section shall identify the purpose of an online product, service or
3 feature and how the online product, service or feature uses
4 children's personal data and determine whether the online product,
5 service or feature is designed and offered in an age-appropriate
6 manner consistent with the best interest of children who are
7 accessing or reasonably likely to access the online product, service
8 or feature by examining at least the following:

9 1. Whether the design of the online product, service or feature
10 could lead to children experiencing or being targeted by harmful, or
11 potentially harmful, contacts on the online product, service or
12 feature that would be inconsistent with the best interest of
13 children reasonably likely to access the online product, service or
14 feature;

15 2. Whether the design of the online product, service or feature
16 could permit children to witness, participate in or be subject to
17 conduct on the online product, service or feature that would be
18 inconsistent with the best interest of children reasonably likely to
19 access the online product, service or feature;

20 3. Whether the design of the online product, service or feature
21 is reasonably expected to allow children to be party to or exploited
22 by a contract on the online product, service or feature;

1 4. Whether algorithms used by the online product, service or
2 feature would be inconsistent with the best interest of children
3 reasonably likely to access the online product, service or feature;

4 5. Whether targeted advertising systems used by the online
5 product, service or feature would be inconsistent with the best
6 interest of children reasonably likely to access the online product,
7 service or feature;

8 6. Whether the online product, service or feature uses system
9 design features to increase, sustain or extend the use of the online
10 product, service or feature by children, including the automatic
11 playing of media, rewards for time spent and notifications, that
12 would be inconsistent with the best interest of children reasonably
13 likely to access the online product, service or feature; and

14 7. Whether, how and for what purpose the online product,
15 service or feature collects or processes sensitive personal data of
16 children and whether those practices would be inconsistent with the
17 best interest of children reasonably likely to access the online
18 product, service or feature.

19 C. When a covered entity identifies an online product, service
20 or feature reasonably likely to be accessed by children that may be
21 inconsistent with the best interest of children, the covered entity
22 shall include in a data protection impact assessment a detailed plan
23 describing the steps the covered entity has taken and will take to

1 ensure that the online product, service or feature will be
2 consistent with the best interest of children.

3 D. A data protection impact assessment is protected as
4 confidential and shall be exempt from public disclosure, including
5 pursuant to the Oklahoma Open Records Act.

6 E. To the extent any information contained in a data protection
7 impact assessment disclosed to the Attorney General includes
8 information subject to attorney-client privilege or work product
9 protection, disclosure pursuant to subsection A of this section
10 shall not constitute a waiver of that privilege or protection.

11 F. A data protection impact assessment conducted by a covered
12 entity for the purpose of compliance with any other law complies
13 with this section if the data protection impact assessment meets the
14 requirements of this act.

15 G. A single data protection impact assessment may contain
16 multiple similar processing operations that present similar risks
17 only if each relevant online product, service or feature is
18 addressed.

19 H. A covered entity shall complete a data protection impact
20 assessment on or before January 1, 2026, for any online product,
21 service or feature that is reasonably likely to be accessed by
22 children after December 31, 2025.

1 SECTION 3. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 8003 of Title 10, unless there
3 is created a duplication in numbering, reads as follows:

4 A covered entity that provides an online product, service or
5 feature that is reasonably likely to be accessed shall not:

6 A. Process the personal data of a child in a way that the
7 covered entity knows, or has reason to know, is inconsistent with
8 the best interest of children reasonably likely to access the online
9 product, service or feature.

10 B. Profile a child by default unless:

11 1. The covered entity can demonstrate that the covered entity
12 has appropriate safeguards in place to ensure that profiling is
13 consistent with the best interest of children reasonably likely to
14 access the online product, service or feature; and

15 2. Profiling is necessary to provide the online product,
16 service or feature requested, and only with respect to the aspects
17 of the online product, service or feature with which the child is
18 actively and knowingly engaged; or

19 3. The covered entity can demonstrate a compelling reason that
20 profiling is in the best interest of children.

21 C. Process any personal data that is not necessary to provide
22 an online product, service or feature with which a child is actively
23 and knowingly engaged.

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1 D. If the end user is a child, process personal data for any
2 reason other than a reason for which that personal data was
3 collected.

4 E. Process any precise geolocation information of children by
5 default unless the collection of that precise geolocation
6 information is strictly necessary for the covered entity to provide
7 the online product, service or feature requested and then only for
8 the limited time that the collection of precise geolocation
9 information is necessary to provide the online product, service or
10 feature.

11 F. Process any precise geolocation information of a child
12 without providing an obvious sign to the child for the duration of
13 that collection that precise geolocation information is being
14 collected.

15 G. Use dark patterns to cause children to provide personal data
16 beyond what is reasonably expected to provide that online product,
17 service or feature, to forego privacy protections or to take any
18 action that the covered entity knows, or has reason to know, is not
19 in the best interest of children reasonably likely to access the
20 online product, service or feature.

21 H. Process any personal data that is not reasonably necessary
22 to provide an online product, service or feature with which a child
23 is actively and knowingly engaged to reasonably estimate age.

1 I. Allow a child's parent, guardian or any other consumer to
2 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
4 being monitored or tracked.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 8004 of Title 10, unless there
7 is created a duplication in numbering, reads as follows:

8 A. A covered entity that violates this act shall be:

9 1. Subject to injunctive relief to cease or correct the
10 violation;

11 2. Liable for a civil penalty of not more than Two Thousand
12 Five Hundred Dollars (\$2,500.00) per affected child for each
13 negligent violation; and

14 3. Liable for a civil penalty of not more than Seven Thousand
15 Five Hundred Dollars (\$7,500.00) per affected child for each
16 intentional violation.

17 B. Enforcement actions pursuant to subsection A of this section
18 shall only be initiated by the Attorney General.

19 C. If a covered entity is in substantial compliance with the
20 requirements of Sections 3 through 5 of this act, the Attorney
21 General shall provide written notice to the covered entity, before
22 initiating an action pursuant to subsection A of this section,
23 identifying the specific provisions of that act that the Attorney
24 General alleges have been or are being violated.

1 D. If a covered entity in compliance with subsection H of
2 Section 4 of this act cures the alleged violations identified in a
3 notice pursuant to subsection C of this section and provides the
4 Attorney General a written statement that the alleged violations
5 have been cured and sufficient measures have been taken to prevent
6 future violations, the covered entity shall not be liable for a
7 civil penalty for any violation cured pursuant to this subsection.

8 E. Nothing in this act shall be interpreted to serve as the
9 basis for a private right of action under this act or any other law.

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 8005 of Title 10, unless there
12 is created a duplication in numbering, reads as follows:

13 This act shall not apply to:

14 A. Protected health information that is collected by a covered
15 entity associate governed by the privacy, security and breach
16 notification rules issued by the United States Department of Health
17 and Human Services, Parts 160 and 164 of Title 45 of the Code of
18 Federal Regulations, established pursuant to the federal Health
19 Insurance Portability and Accountability Act of 1996.

20 B. A covered entity governed by the privacy, security and
21 breach notification rules issued by the United States Department of
22 Health and Human Services, Parts 160 and 164 of Title 45 of the Code
23 of Federal Regulations, established pursuant to the federal Health
24 Insurance Portability and Accountability Act of 1996, to the extent

1 the provider or covered entity maintains patient information in the
2 same manner as medical information or protected health information
3 as described in subsection A of this section.

4 C. Information collected as part of a clinical trial subject to
5 the federal policy for the protection of human subjects, also known
6 as the common rule, pursuant to good clinical practice guidelines
7 issued by the international council for harmonization of technical
8 requirements for pharmaceuticals for human use or pursuant to human
9 subject protection requirements of the United States Food and Drug
10 Administration.

11 D. A telecommunications service as defined in 47 U.S.C.,
12 Section 153.

13 E. The delivery or use of a physical product.

14 SECTION 6. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 8006 of Title 10, unless there
16 is created a duplication in numbering, reads as follows:

17 Nothing in this act shall be interpreted or construed to:

18 A. Impose liability in a manner that is inconsistent with 47
19 U.S.C., Section 230.

20 B. Prevent or preclude a child from deliberately or
21 independently searching for, or specifically requesting, content.

22 C. Require a covered entity to restrict access to online
23 products, services, or features based solely on age.

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1 SECTION 7. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 8007 of Title 10, unless there
3 is created a duplication in numbering, reads as follows:

4 A. This act shall apply to covered entities in Oklahoma or
5 persons that provide online products, services, or features that are
6 targeted to residents of this state and that during the preceding
7 calendar year:

8 1. Controlled or processed the personal data of not fewer than
9 one hundred thousand (100,000) consumers, excluding personal data
10 controlled or processed solely for the purpose of completing a
11 payment transaction; or

12 2. Controlled or processed the personal data of not fewer than
13 twenty-five thousand (25,000) consumers and derived more than
14 twenty-five percent (25%) of the covered entity's gross revenue from
15 the sale of personal data.

16 B. This act does not apply to an online product, service, or
17 feature that is not accessible by the public after December 31,
18 2025.

19 SECTION 8. This act shall become effective November 1, 2025.

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