Your Body, Their Data:

Digital Surveillance and the New Frontier of Reproductive Control

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STAGE ONE

The legal battle for reproductive rights in the United States has historically been fought on the terrain of clinical access and physical liberty, not digital privacy. The 1965 case of *Griswold v. Connecticut (1965)* established a "right to privacy" within marital relationships, specifically regarding the use of contraception [1]. This constitutional principle became the bedrock of later reproductive rights cases like *Roe V. Wade* (1973)[2]and *Planned Parenthood v. Casey* (1992)[3] which provided a federal backstop, making the digital footprint of individuals a secondary concern. Throughout this period, the primary legal and political battles were over physical access to clinics, provider regulations, and gestational limits [4]. Because the act of abortion was a protected right, the digital footprint of individuals was not a primary concern.

This legal foundation was dismantled in June 2022 when the Supreme Court overturned *Roe* and *Casey* with *Dobbs v. Jackson Women's Health Organization* (2022)*,* eliminating the federal constitutional right to abortion and returning its regulation to the states[5]. This immediately activated a patchwork of laws. In states like Texas and Georgia, so-called "trigger bans" - pre-written, dormant statues designed to take effect upon *Roe's* fall - immediately criminalized abortion with limited exceptions, fundamentally altering the legal landscape for patients and providers. This created a nation where a healthcare decision is a protected right in one state and a prosecutable crime in another [6]. Critically, the *Dobbs* decision opened the door for states to investigate and prosecute individuals, not just providers, for obtaining or seeking an abortion.

This new prosecutorial reality weaponizes the digital trail people leave in their daily lives. The Health Insurance Portability and Accountability Act of 1996 (HIPPA) left a significant loophole, as it only applies to healthcare providers, health plans, and their "business associates", not to the vast ecosystem of health and wellness apps (such as Flo or Clue), search engines, social media platforms, and data brokers that purchase and aggregate user data[7]. Consequently, the digital trail people leave (such as text messages, search histories, period-tracking app data, and location data) is now potential evidence for law enforcement. The legal battle has had to pivot from protecting clinical access to protecting digital privacy from state surveillance[8].

In Nebraska, law enforcement served Meta with a warrant for the Facebook messages of Jessica and Celeste Burgess, who were charged with violating state abortion law. The company provided access to their private data, which was used in the prosecution[9]. Similarly, a Texas

sheriff's office used a network of automated license plate readers to track a woman based on a log entry stating "had an abortion"[10], and in Idaho, police used cell phone location data to investigate a family traveling to Oregon for an abortion[11]. The data broker industry is central to this threat, as demonstrated when Near Intelligence sold location data from nearly 600 Planned Parenthood clinics to an anti-abortion group[12]. Furthermore, a Congressional inquiry revealed that major pharmacy chains have routinely turned over patient prescription records to law enforcement without a warrant[13].

The legal environment is further escalated by the proliferation of "fetal personhood" laws. Georgia's Living Infants Fairness Equality Act demonstrates how a state recognizes "unborn children" as "natural persons" at any stage of development, creating a legal conflict between the rights of the pregnant person and the state's interest in the fetus[14]. In 2025, the consequences of fetal personhood laws became tragically clear when Adriana Smith, an Atlanta nurse and mother, was declared brain dead early in her pregnancy of her second child. Despite her condition being irreversible, the hospital kept her body on life support for months - against her family's wishes - to support the gestation of the fetus inside her corpse[15].

The scale of this crisis is significant and documented by a September 2025 report from Pregnancy Justice, which reveals 412 criminal cases against pregnant people in the first two years after *Dobbs*. These cases disproportionately target low-income, with over three-quarters (315) involving low-income people and an overrepresentation of Black (63), and Indigenous people (19). Notably, the vast majority of these prosecutions are not about fetal demise. Of the 323 cases with known outcomes, 292 involved a live birth rather than an abortion, proving they are largely tools for policing the behavior of pregnant people. In nine cases, the mere consideration of an abortion, evidenced by possession of medication or attempts to obtain one, was weaponized[16].

The data broker industry, which operates largely unregulated at the federal level, forms the backbone of the digital surveillance threat. The potential for weaponization is exacerbated by the power of consumer technology to infer sensitive health status. For instance, the Oura Ring can detect physiological changes that identify pregnancy before most people know they are pregnant[17]. The inherent identifiability of this data is a core problem. A 2013 study found that 95% of individuals could be uniquely re-identified from their location data using only four geospatial data points[18]. This is particularly alarming given that approximately one-third of

American women use digital apps to track their menstrual cycles[19]. Despite the clear risks, voluntary corporate promises have proven unreliable, as a *Washington Post* investigation found Google failed to delete location data for visits to abortion clinics about half the time[20].

The federal government has enabled this surveillance environment. The Biden Administration's 2024 HIPAA Reproductive Health Care Privacy Rule was repealed by the Trump administration and subsequently vacated by the courts in *Purl v. HHS,* removing heightened federal protections [21]. Furthermore, the executive branch has actively reshaped the federal information landscape; a 2025 content analysis documented the systematic removal of evidence-based maternal health resources from womenshealth.gov, deleting content discussing structural racism as a cause of health disparities and promoting ideologies that frame women as vulnerable[22], thereby creating a perceived need for the digital surveillance evidenced in cases like Burgess. The researchers identified the active promotion of a "structural heteropatriarchy" ideology, a belief system that subordinates women and sexual/gender minorities to cement the dominance of heterosexual cisgender men. This ideological project is the fundamental driver behind policies that create the demand for digital evidence[23]. Compounding the problem, new federal initiatives, like a proposed Centers for Medicare & Medicaid Services (CMS) health data tracking system, risk creating large-scale targets for law enforcement subpoenas[24].

The Supreme Court's decision in *Dobbs* activated a pre-existing but dormant surveillance infrastructure. The convergence of state "trigger bans", "personhood" laws, the vast, unregulated data broker industry, and an active federal campaign to obscure health information has created a legal environment where personal digital data is weaponized to investigate, prosecute, and punish individuals for their reproductive choices. Now individuals are deterred from seeking essential care while compromising public health data and a dangerous surveillance architecture that erodes digital liberty for all Americans is being established. The federal government must enact a uniform standard to close the HIPAA loophole and prevent health data from being used as evidence in abortion-related prosecutions.

STAGE TWO

The weaponization of reproductive health data, as diagnosed in Stage 1, does not occur in a political vacuum. It is the direct result of a fierce ideological struggle playing out between two powerful coalitions. On one side, a diverse alliance of healthcare, privacy, and civil liberties advocates who view data protections as an essential component of bodily and medical ethics. Arrayed against them is a coalition of social conservatives, states' rights advocates, and data industry interests who prioritize fetal personhood, state sovereignty, and commercial freedom, whose collective actions have enabled a dangerous and pervasive surveillance ecosystem. Navigating this highly polarized landscape is the central political challenge that any reform must overcome.

A diverse alliance of organizations with distinct perspectives recognizes the urgent threat posed by digital surveillance and advocates for robust federal privacy, coalescing around the principle that personal data should not be weaponized against individuals seeking healthcare.

Digital rights and civil liberties organizations form the vanguard of technical and legal defense. The Electronic Frontier Foundation (EFF) and The Center for Democracy and Technology (CDT) expose surveillance mechanics, critique data brokers, and advocate for comprehensive federal privacy legislation[25]. The American Civil Liberties Union (ACLU) bridges the gap between movements, litigating against abortion restrictions while simultaneously launching campaigns that highlight how digital data can be weaponized against vulnerable populations, framing privacy as a fundamental right[26].

Reproductive rights and justice organizations bring the perspective of those directly targeted. Planned Parenthood calls for corporate data protection and support shield laws[27]. Pregnancy Justice provides critical evidence through its documentation of hundreds of pregnancy criminalization cases [28].

Public health and medical associations ground the argument in ethics and patient care. The American Medical Association (AMA) and the American College of Obstetricians and Gynecologists (ACOG) have condemned the criminalization of reproductive healthcare and oppose laws that turn providers into data conduits for law enforcement[29]. These organizations, and others like them, ground the argument in medical ethics and patient safety.

Legislative and executive branch actors are translating this advocacy into political action. At the federal level, one of the first and more direct legislative responses to the post-Dobbs data

threat was the Health and Location Data Protection Act by Senator Warren (D-MA)[30], and the My Body, My Data Act seek to ban data brokers from selling health and location data and create a new national privacy standard [31].

Across the country, governors and legislatures in states like California, Colorado, Illinois, and New York have enacted comprehensive shield laws [32]. These states are natural allies for federal legislation, as it would reinforce their protections and extend similar security to individuals in non-shield states. Their existing laws, such as S.B. 345, California's Abortion Shield Law, which is one of the nation's most comprehensive shield laws that includes prohibitions on state law enforcement sharing information with federal officials, provide a blueprint for effective policy [33].

The movement for reform faces a formidable opposition coalition, driven by competing ideologies and financial interests, that now holds power at the highest levels of American government. Social conservatives and anti-abortion organizations provide the ideological drive and policy blueprints for executive power for opposition.

The Heritage Foundation's Project 2025, a comprehensive 900-page presidential transition project that serves as a roadmap for the Trump Administration[34]**.** Its goals include to enforce the Comstock Act, which bans the interstate mailing of abortion medication Comstock Act [35], and reverse FDA approval of medication abortion, actions that would necessitate extensive surveillance[36].

Restrictive state governments create the demand for digital evidence. Governors and legislators in states like Texas, Georgia, and Florida have passed "trigger bans" and "personhood" laws that enable the investigation and prosecution of abortion, as seen in *Purl v. HHS* [37]. These states are plaintiffs in federal lawsuits aimed at limiting telehealth access (*Louisiana v. FDA)*, overturning privacy rules (*Texas v. HSS*), and restricting interstate travel for care (*Matsumoto v. Labrador)*[38].

The data broker industry forms the commercial backbone of the surveillance threat. It collects, analyzes, and sells exhaustive amounts of information on individuals that can reveal intimate details such as movements, habits, and health conditions. Data brokers use algorithmic tools to make inferences about individuals, lumping them into sensitive categories based on health, ethnicity, religion, or political affiliation [39]. This industry is notoriously resistant to regulation; a study found a majority of registered data brokers in California failed to comply with

basic data access laws[40]. Law enforcement and intelligence agencies are key clients, secretly purchasing data to bypass warrant requirements[41].

In essence, ideologues and federal actors create the political and legal demand for surveillance, state actors translate those ideologies into state laws and investigations that create a market for data, and the data industry supplies the commodity - sensitive data - that fuels the entire system.

The interests of these coalitions clash on several fundamental fronts. The conflict between the concepts of bodily autonomy and fetal personhood represent an irreconcilable legal and moral schism. Bodily autonomy is the foundational right to have self-determination over one's own body and life while fetal personhood seeks to grant fertilized eggs and zygotes full constitutional rights, effectively treating the pregnant person as a state-regulated vessel [42]. At its core, this is a conflict over the concept of bodily ownership: bodily autonomy asserts that an individual's body is their own, while fetal personhood effectively treats the pregnant person's body as a vessel that can be regulated and controlled by the state. This chasm is not merely philosophical but physical, underscored by the biological reality that a fetus requires gestation inside another person's body for approximately 24 weeks to achieve a chance of viability outside the womb[43].

The second main conflict is between federal preemption[44] versus the concept of states' rights. Reform advocates argue for a uniform national standard to override conflicting state laws. Opponents champion states' rights to legislate on morality and enforce abortion bans. This is complicated by reformers' support for protective state shield laws, leading them to advocate for a federal 'floor' instead of a 'ceiling' model that sets a baseline standard without preventing states from enacting stronger protections[45].

An economic conflict pits digital rights advocates against the data broker industry over the very nature of personal information. Organizations like the EFF and CDT frame privacy as a fundamental human right essential for liberty and autonomy[46]. The data broker industry operates on the principle that personal data is a tradable commodity with a multi-hundred-billion dollar market[47]. For that industry, any regulation that restricts the collection and sale of data directly threatens their core business model and financial interests.

There are also conflicts between major institutions. Medical associations and public health organizations, such as the AMA and ACOG, are bound by ethical codes that prioritize

patient confidentiality and the integrity of the patient-provider relationship[48]. In restrictive states, however, law enforcement and prosecutors increasingly view health data as potential evidence for investigations and prosecutions related to abortion[49]. This turns healthcare providers into potential unintentional informants and shatters the essential trust needed for effective medical care.

Amidst these deep conflicts lies a sliver of common ground on the issue of data security. All parties have a shared interest in preventing malicious data breaches. Therefore, establishing robust technical standards for data security presents a rare opportunity for bipartisan agreement, even as debates over data usage and privacy remain polarized.

The path to reform requires navigating this highly polarized landscape. The political battlefield is sharply divided between two powerful coalitions with fundamentally opposing goals. One coalition frames the issue as one of privacy, safety, and bodily autonomy, while the other prioritizes state sovereignty, fetal personhood, and commercial freedom. A successful strategy must be multifaceted, pursuing federal legislation that can pre-empt the most damaging laws while empowering regulatory bodies like the Federal Trade Commission (FTC) with strong enforcement capabilities. The following stage will detail a proposal designed to navigate these entrenched political conflicts.

STAGE THREE

The most effective path to ending the weaponization of reproductive health data is the passage of a federal statute, the "Digital Bodyguard Act", which establishes a prohibited-by-default standard for sensitive health data, enforced by a dual mechanism of regulatory action and private legal resources.

The necessity of this federal statute is underscored by both the limitations of state-level solutions and the inherently interstate nature of the data broker industry. While state shield laws block data sharing after a request, a federal act prevents sensitive health related data from being collected in the first place, addressing the problem at its source. The variation in state shield laws - only six states prohibit state law enforcement from providing information to federal officials - reveals a gap that only a federal law can fill [50]. The proposed Digital Bodyguard Act is designed to work in concert with other emerging federal efforts, such as the HHS Reproductive and Sexual Health Ombuds Act of 2025 (H.R. 5925) [51], creating a comprehensive approach where the HHS Ombuds publicizes threats and the FTC prosecutes them.

Relying on corporate promises or user consent has proven to be a failed strategy, as demonstrated by Google's failure to automatically delete sensitive location data despite its public pledge [52]. The Digital Bodyguard Act learns from this failure by establishing a prohibited-by-default standard that places the legal burden on companies to justify any collection of sensitive health data.

The current political landscape suggests that any viable federal privacy law in the near term is likely to follow a business-friendly, deregulatory model. This means a law resembling the Texas Data Privacy and Security Act (TDPSA), which is enforced solely by the state attorney general and explicitly precludes a private right of action [53], is a more probable blueprint than one based on California's stronger, citizen-enforceable California Consumer Privacy Act (CCPA) [54]. This distinction in enforcement philosophy is a central political fault line.

The Digital Bodyguard Act builds upon state-level innovation by creating a national standard that protects all citizens, regardless of their zip code. The proliferation of state shield laws in twenty-two states and D.C. demonstrates that data protection is not a partisan or fringe issue, but a mainstream response to a recognized crisis [55]. The cases are also inherently interstate, as evident in court cases about travel (Matsumoto v. Labrador, Yellowhammer Fund v. Marshall) and telehealth (Louisiana v. FDA) [56].

The Act's core provisions are designed to be both comprehensive and enforceable. It defines 'sensitive health data' broadly and specifically to include information related to past, present, or future reproductive health, menstruation, fertility, pregnancy, ovulation, contraception, abortion, and crucially, data inferences and precise location data near healthcare facilities. Data inferences refers to any health information derived or inferred from non-health data (such as inferring pregnancy from sleep patterns, location data, or purchase history). Search history and communications related to seeking this information would also be prohibited.

The Act makes the collection, sale, sharing, or retention of sensitive health data by commercial entities illegal by default. The burden is on the company to ensure a specific data practice is legal by obtaining a user's explicit, opt-in consent that is affirmative, informed, granular, and easily revocable.

To ensure robust enforcement, the Act creates a dual-enforcement mechanism. The FTC is designated as the primary enforcer, granted authority to create rules and levy significant fines. The Act also empowers individuals to bring civil actions, with statutory damages, creating a powerful, distributed deterrent modeled on laws like the Illinois Biometric Act (BIPA). This dual approach ensures enforcement even during periods of reduced regulatory appetite.

The proposed 'Digital Bodyguard Act' is designed to work in concert with other emerging federal efforts to protect reproductive autonomy, such as the recently introduced HHS Reproductive and Sexual Health Ombuds Act of 2025 (H.R. 5925)[57]. While the Ombuds would be tasked with public education and coordinating with the FTC on data privacy concerns, the Act provides the specific, statutory prohibitions and enforcement mechanisms necessary to make that coordination effective.

Data covered under this Act can only be disclosed to law enforcement with a warrant based on probable cause for a crime unrelated to reproductive healthcare, preventing its use as a dragnet surveillance tool.

In the 119th Congress, the chances of this bill advancing are incredibly limited, due to Republican control of the House, Senate, and White House[58]. To advance this bill, advocates would need to wait until their legislative allies regain the power to get a vote.

If the Democratic Party can retake the House of Representatives in the 2026 midterms, they will have the leadership power to advance this kind of legislation. This bill would be primarily shaped by two key committees, the most important of which is the House Committee

on Energy and Commerce, as it has jurisdiction over consumer protection, health, and telecommunications[59]. The current ranking member, and the likeliest person to become Chair, is Rep. Frank Pallone Jr. (D-NJ), who is a staunch defender of the Affordable Care Act[60] and a supporter of abortion rights[61]. The relevant subcommittees (Subcommittee on Health and the Subcommittee on Innovation, Data, and Commerce), and their likely leaders, would be important and powerful allies in this fight. The second committee is the House Committee on the Judiciary, which would also have jurisdiction due to the bill's implications for criminal procedure and federal pre-emption of state laws. The current ranking member is Rep. Jerrold Nadler (D-NY)[62], who has a strong record on civil liberties and is a key figure in the Trump impeachments[63], making him another formidable chair and ally.

In the House, there would be many supporters amongst the Democratic party. This would include the original sponsors of related bills, including Rep. Sara Jacobs (D-CA), the lead sponsor of the My Body, My Data Act[64], and Rep. Ted Lieu (D-CA), sponsor of the Reproductive Data Privacy and Protection Act[65].

On the other side of the aisle in the House, there would be immediate and forceful opposition from members that represent states with restrictive laws. This would include the Republican leadership as well as other conservatives lawmakers who support laws that restrict the autonomy and personhood of non-white men.

Even if Democrats win the house, the Senate is considered a much harder lift, with Republicans likely to retain control[66]. This means that the bill would face a steep uphill battle and would need to navigate a more politically complicated process. The relevant committees in the Senate include the Senate Committee on Commerce, Science, and Transportation, which is chaired by Sen. Ted Cruz (R-TX)[67], and the Senate Committee on the Judiciary, chaired by Sen. Chuck Grassley (R-IA)[68]. Both of these men[69] and other vocal social conservatives are staunch supporters of fetal personhood, state's rights, and patriarchal gender roles.

The primary sponsors in the Senate are likely to be Sen. Mazie Hirono (D-HI) and Sen. Ron Wyden (D-OR), who have been leaders on digital privacy and reproductive rights[70]. They would need to work with moderate Republicans to find a path forward, which is a significant political challenge in this political and cultural environment.

The success of this Act depends entirely on robust enforcement, and as such, understanding the political identity of the FTC is crucial. The current Republican chair, Andrew

Ferguson, and Commissioners Melissa Holyoak and Mark Meador would likely be hostile to the aggressive regulatory approach the Act mandates. They would seek to narrow its interpretation and limit enforcement actions. However, the political composition of the FTC can change. A future Democratic administration could appoint chairs and commissioners that more align with the goals of the bill.

This Act will need to be messaged and framed carefully by supporters to neutralize opposition. The argument that this act is a liability shield and a uniform standard that protects compliant companies from the nightmare of complying with dozens of conflicting state laws is likely to be the most successful against data brokers and the tech industry. Against social conservatives, the reframing of the issue from abortion to fundamental digital liberty positions the Act as a bulwark against a corporate surveillance state that can track all citizens, a message that resonates across the spectrum.

The beneficiaries from this Act will be individuals seeking reproductive healthcare, digital rights advocates, public health researchers, and compliant tech companies that prioritize privacy. It will ensure that trust is restored between patients and providers, between users and digital platforms, and in the validity of the public health care data collected by physicians. The Act will restrict the business model of the data broker industry, who will no longer be able to profit off of the persecution of vulnerable people. It will prevent adversarial state attorneys general from obtaining evidence and vigilante groups from accessing this data via commercial sale.

The Digital Bodyguard Act synthesizes the most effective elements of global best practices into a coherent federal strategy. It learns from the failures of corporate self-policing and the gaps in existing laws to create a proactive, enforceable regime. The necessity of a strong, federal privacy law is underscored by the vulnerability of public health information to political shifts. The dismantling of womenshealth.gov demonstrates that without a durable, statutory federal protection, vital health resources and accurate information can be erased by executive fiat. This leaves individuals more reliant on and vulnerable to the very commercial data ecosystem the Digital Bodyguard Act seeks to regulate.

There will be lingering challenges to confront, such as ensuring consistent political will and funding for the FTC as well as adapting to rapidly evolving surveillance technologies. The success of the Act must be measured by a reduction in data-based prosecutions, successful FTC

enforcement actions, and a demonstrable increase in public trust in digital health tools. The following stage will detail the specific mechanism for this enforcement, compliance, and assessment.

STAGE FOUR

This stage details the specific mechanisms for enforcing the Digital Bodyguard Act, ensuring compliance from regulated entities, and measuring its success in protecting reproductive health data. A law is only as strong as its implementation and therefore, this stage answers the critical "how" questions .Through a multi-pronged strategy of proactive regulatory action, empowered private litigation, transparent monitoring, and periodic congressional review, the Digital Bodyguard Act will be robustly implemented and adaptively managed to end the weaponization of reproductive health data.

The FTC is the nation's primary consumer protection agency with established expertise in regulating unfair and deceptive trade practices, making it the logical enforcer for a law targeting commercial data abuses[71]. It is an existing enforcer for a law targeting commercial data abuses and its existing authority in the digital ecosystem allows for a more rapid and effective rollout than creating a new, untested agency.

The FTC's specific enforcement actions will include: within 180 days of enactment, the FTC will detail rules to clarify critical definitions, such as 'data inferences' and 'granular consent' and establish standardized compliance procedures that will provide clear, actionable guidance to industry and create a consistent enforcement standard. The FTC's Bureau of Consumer Protection will establish a dedicated task force to proactively monitor the data broker market for violations, using its subpoena power to compel testimony and document production[72]. This moves the Act from a passive, complaint-driven model to an active watchdog function. The FTC will also levy sustainable fines on a per-violation, per-day basis. Following the precedent of Senator Warren's Health and Location Data Protection Act, penalties must be severe enough to deter profitable non-compliance, treating violations as a cost of business rather than a minor regulatory slip. The proposed $1 billion in funding over ten years from Warren's Act underscores the resource level required for this aggressive enforcement mandate [73].

To ensure compliance, there will be different procedures for different groups. For data brokers and tech companies, the Act will direct the FTC to create a voluntary but incentivized certification program for apps and wearable devices. To achieve certification, a company must demonstrate that its data practices, architecture, and user interfaces comply with the Act's strict standards. Certified companies would benefit from a presumption of compliance and a powerful market differentiator. Major data brokers will be mandated to undergo independent, third-party

audits every two years. These audits will verify that the company does not collect, sell, or share "sensitive health data" as defined by the Act, with audit summaries submitted directly to the FTC.

For government and law enforcement agencies, the Act will explicitly prohibit all law enforcement agencies (local, state, and federal) from using any data regulated under this Act to investigate, prosecute, or secure warrants related to reproductive healthcare. Crucially, any evidence obtained or derived in violation of this rule will be subject to the exclusionary rule, barring any evidence traceable to an illegal data collection from being used in any judicial or administrative proceeding[74]. This creates a direct and powerful legal disincentive for prosecutors and police.

The success of the Digital Bodyguard Act will be measured by a combination of outcome-based and enforcement-based metrics, moving beyond simple activity tracking to assess real-world impact. To measure the outcome of this Act, a reduction in data-based prosecutions and a reduction in commercially available data would indicate that the Act has had some success. This will be seen in a year–over-year decrease in the number of criminal cases where digital data is used as evidence in abortion-related investigations. The FTC will track and report on the volume of datasets made up of sensitive health data available for purchase on the data broker market.

It is also important to measure enforcement and compliance. This would include tracking FTC enforcement activity, such as the number of investigations launched, warning letters issued, and final enforcement actions completed. It would also be important to track the amount of private litigation, such as the number of private right of action lawsuits filed and their outcomes. A high number of successful suits indicates both widespread compliance issues and a functioning citizen-enforcement mechanism. The metrics derived from audit reports and certification programs would also be important metrics to track, as they would show the proportion of the industry adhering to the new standards.

To prevent regulatory stagnation, a formal and transparent assessment process would be institutionalized. To increase transparency with the public and accountability, the FTC would maintain a public, online dashboard displaying key enforcement metrics, a summary of concluded cases (with sensitive details redacted), and the status of the certified products list. This ensures accountability to the public and provides valuable data to researchers and advocates. In

addition, Congress would mandate a report from the FTC and Government Accountability Office (GAO) every three years. This report would assess the Act's impact based on all performance metrics, evaluate the efficacy of the enforcement strategies, and identify any emerging technological or legal loopholes.

The three-year review would serve as the formal trigger for necessary legislative updates, ensuring the law evolves in response to new challenges. Based on the findings, Congress could expand protected categories if new data types are weaponized, strengthen penalties and incentives if fines are an insufficient deterrent, and close identified loopholes to address novel legal arguments or technological workarounds.

The Digital Bodyguard Act's long-term efficacy is secured by a closed-loop system of enforcement, measurement, and adaptation. The FTC, empowered with clear rules and sufficient funding, serves as the primary public enforcer, while a private right of action creates a powerful, decentralized deterrent. Success is measured not merely by enforcement actions but by the ultimate metric - a tangible reduction in the weaponization of data against individuals. Regular, evidence-based congressional review ensures the law remains a dynamic and effective shield against digital surveillance.

The primary challenge will be ensuring consistent political will and funding for the FTC across different administrations, safeguarding the agency's capacity for aggressive enforcement regardless of the political climate. Continuous vigilance will be required to adapt to rapidly evolving surveillance technologies, particularly advanced AI inference models that may create new privacy threats. To that end, legislative reforms are necessary to protect fundamental liberties in a political environment where more foundational structural reforms, such as constitutional equality, remain unrealized.

Ultimately, the necessity of the Digital Bodyguard Act is a damning indictment of our current societal structure. This legislative reform is required not due to a simple policy gap, but because our legal and political systems have been designed to uphold patriarchy and white supremacy. The weaponization of data is not an anomaly: it is the modern manifestation of a centuries-old project to control bodily autonomy, particularly that of women, people of color, and LGBTQ+ individuals. When the fundamental principles of bodily autonomy and true gender equality are not enshrined in our constitution, the state, empowered by patriarchal and capitalist imperatives, will always find new tools –- from archaic laws to digital dragnets – to police,

punish, and perpetuate its power. The pursuit of this statute is necessary precisely because the more profound, structural reform that would guarantee equality remains, for now, a promise denied.

Notes

Stage 1

1. *Griswold v. Connecticut*, 381 U.S. 479 (1965).
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15. Jess Mador, "Does Georgia's Fetal 'personhood' Law Mean a Pregnant Woman Must Stay on Life Support?," Health Reporting in the States, *NPR*, June 7, 2025, https://www.npr.org/sections/shots-health-news/2025/06/07/nx-s1-5425384/georgia-anti-abortion-fetal-personhood-law-pregnant-woman-life-support.

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