

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

HOUSE BILL 1762

By: Kerbs

AS INTRODUCED

An Act relating to children; providing definitions; directing covered entities to complete and review impact assessments; requiring covered entities to provide impact assessments to Attorney General; requiring certain default privacy settings; directing 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 entity act in best interest of children; clarifying data protection impact assessments are confidential 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 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 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 provide notice to covered entities in substantial

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
10 solely on age; clarifying Act applies to certain
11 covered entities; clarifying that Act does not apply
12 to online products, services, or features not
13 accessible by public after certain date; providing
14 for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 8001 of Title 10, unless there
is created a duplication in numbering, reads as follows:

As used in this act:

1. "Affiliate" means a legal entity that controls, is
controlled by or is under common control with another legal entity;
2. "Age-appropriate" means a recognition of the distinct needs
and diversities of children in the following age ranges:
 - a. up to five (5) years of age,
 - b. six (6) to nine (9) years of age,
 - c. ten (10) to twelve (12) years of age,
 - d. thirteen (13) to fifteen (15) years of age, and
 - 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 any
20 means, including receiving personal data from the consumer, either
21 actively or passively, or by observing the consumer's behavior;

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

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

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

4 a. ownership of or the power to vote more than fifty
5 percent (50%) of the outstanding shares of any class
6 of voting security of a covered entity,

7 b. control in any manner over the election of a majority
8 of the directors or of individuals exercising similar
9 functions of a covered entity, or

10 c. the power to exercise a controlling influence over the
11 management of a covered entity;

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

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

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

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

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

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

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

19 15. "Personal data" means any information, including derived
20 data, that is linked or reasonably linkable, alone or in combination
21 with other information, to an identified or identifiable individual.
22 Personal data does not include de-identified information or publicly
23 available information;

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

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

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

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

- 20 a. the online product, service or feature is directed to
21 children as defined by the federal Children's Online
22 Privacy Protection Act of 1998,
23 b. the online product, service or feature is determined,
24 based on competent and reliable evidence regarding

1 audience composition, to be routinely accessed by a
2 significant number of children,

3 c. the online product, service or feature has
4 advertisements marketed to children,

5 d. the online product, service or feature is
6 substantially similar or the same as an online
7 product, service or feature subject to subparagraph b
8 of this paragraph,

9 e. a significant amount of the audience of the online
10 product, service or feature is determined, based on
11 internal company research, to be children, or

12 f. the covered entity knew or should have known that a
13 user is a child;

14 20. "Sell" means selling, renting, releasing, disclosing,
15 disseminating, making available, transferring or otherwise
16 communicating orally, in writing or by electronic or other means, a
17 consumer's personal data by a covered entity to a third party for
18 monetary or other valuable consideration. Sell does not include:

19 a. the disclosure of personal data to a third party who
20 processes the personal data on behalf of the covered
21 entity,

22 b. the disclosure of personal data to a third party with
23 whom the consumer has a direct relationship for
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1 purposes of providing an online product, service or
2 feature requested by the consumer,

3 c. the disclosure or transfer of personal data to an
4 affiliate of the covered entity,

5 d. the disclosure of data that the consumer intentionally
6 made available to the general public via a channel of
7 mass media and did not restrict to a specific
8 audience, or

9 e. the disclosure or transfer of personal data to a third
10 party as an asset that is part of the completed or
11 proposed merger, acquisition, bankruptcy or other
12 transaction in which the third party assumes control
13 of all or part of the covered entity's assets;

14 21. "Sensitive personal data" means personal data that
15 includes:

16 a. data revealing racial or ethnic origin, religious
17 beliefs, mental or physical health condition or
18 diagnosis, sex life, sexual orientation or citizenship
19 or immigration status,

20 b. the processing of genetic or biometric data for the
21 purpose of uniquely identifying an individual, or

22 c. precise geolocation data;

23 22. "Share" means sharing, renting, releasing, disclosing,
24 disseminating, making available, transferring or otherwise

1 communicating orally, in writing or by electronic or other means, a
2 consumer's personal data by a covered entity to a third party for
3 cross-context behavioral advertising, whether or not for monetary or
4 other valuable consideration, including transactions between a
5 covered entity and a third party for cross-context behavioral
6 advertising for the benefit of a covered entity in which no money is
7 exchanged; and

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

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

13 A. A covered entity shall:

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

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

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

1 4. Within seven (7) business days of a written request by the
2 Attorney General, provide a data protection impact assessment to the
3 Attorney General pursuant to such a request; provided that the
4 Attorney General may, in the Attorney General's discretion, extend
5 the time allowed for a covered entity to produce a data protection
6 impact assessment;

7 5. Configure all default privacy settings provided to children
8 by the online product, service or feature to settings that offer a
9 high level of privacy, unless the covered entity can demonstrate a
10 compelling reason that a different setting is in the best interest
11 of children;

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

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

19 B. The data protection impact assessment required by this
20 section shall identify the purpose of an online product, service or
21 feature and how the online product, service or feature uses
22 children's personal data and determine whether the online product,
23 service or feature is designed and offered in an age-appropriate
24 manner consistent with the best interest of children who are

1 accessing or reasonably likely to access the online product, service
2 or feature by examining at least the following:

3 1. Whether the design of the online product, service or feature
4 could lead to children experiencing or being targeted by harmful, or
5 potentially harmful, contacts on the online product, service or
6 feature that would be inconsistent with the best interest of
7 children reasonably likely to access the online product, service or
8 feature;

9 2. Whether the design of the online product, service or feature
10 could permit children to witness, participate in or be subject to
11 conduct on the online product, service or feature that would be
12 inconsistent with the best interest of children reasonably likely to
13 access the online product, service or feature;

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

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

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

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1 6. Whether the online product, service or feature uses system
2 design features to increase, sustain or extend the use of the online
3 product, service or feature by children, including the automatic
4 playing of media, rewards for time spent and notifications, that
5 would be inconsistent with the best interest of children reasonably
6 likely to access the online product, service or feature; and

7 7. Whether, how and for what purpose the online product,
8 service or feature collects or processes sensitive personal data of
9 children and whether those practices would be inconsistent with the
10 best interest of children reasonably likely to access the online
11 product, service or feature.

12 C. When a covered entity identifies an online product, service
13 or feature reasonably likely to be accessed by children that may be
14 inconsistent with the best interest of children, the covered entity
15 shall include in a data protection impact assessment a detailed plan
16 describing the steps the covered entity has taken and will take to
17 ensure that the online product, service or feature will be
18 consistent with the best interest of children.

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

22 E. To the extent any information contained in a data protection
23 impact assessment disclosed to the Attorney General includes
24 information subject to attorney-client privilege or work product

1 protection, disclosure pursuant to subsection A of this section
2 shall not constitute a waiver of that privilege or protection.

3 F. A data protection impact assessment conducted by a covered
4 entity for the purpose of compliance with any other law complies
5 with this section if the data protection impact assessment meets the
6 requirements of this act.

7 G. A single data protection impact assessment may contain
8 multiple similar processing operations that present similar risks
9 only if each relevant online product, service or feature is
10 addressed.

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

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 8003 of Title 10, unless there
17 is created a duplication in numbering, reads as follows:

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

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

24 B. Profile a child by default unless:

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

5 2. Profiling is necessary to provide the online product,
6 service or feature requested, and only with respect to the aspects
7 of the online product, service or feature with which the child is
8 actively and knowingly engaged; or

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

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

14 D. If the end user is a child, process personal data for any
15 reason other than a reason for which that personal data was
16 collected.

17 E. Process any precise geolocation information of children by
18 default unless the collection of that precise geolocation
19 information is strictly necessary for the covered entity to provide
20 the online product, service or feature requested and then only for
21 the limited time that the collection of precise geolocation
22 information is necessary to provide the online product, service or
23 feature.

1 F. Process any precise geolocation information of a child
2 without providing an obvious sign to the child for the duration of
3 that collection that precise geolocation information is being
4 collected.

5 G. Use dark patterns to cause children to provide personal data
6 beyond what is reasonably expected to provide that online product,
7 service or feature, to forego privacy protections or to take any
8 action that the covered entity knows, or has reason to know, is not
9 in the best interest of children reasonably likely to access the
10 online product, service or feature.

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

14 I. Allow a child's parent, guardian or any other consumer to
15 monitor the child's online activity or track the child's location
16 without providing an obvious signal to the child when the child is
17 being monitored or tracked.

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

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

22 1. Subject to injunctive relief to cease or correct the
23 violation;

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

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

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

9 C. If a covered entity is in substantial compliance with the
10 requirements of Sections 3 through 5 of this act, the Attorney
11 General shall provide written notice to the covered entity, before
12 initiating an action pursuant to subsection A of this section,
13 identifying the specific provisions of that act that the Attorney
14 General alleges have been or are being violated.

15 D. If a covered entity in compliance with subsection H of this
16 section cures the alleged violations identified in a notice pursuant
17 to subsection C of this section and provides the Attorney General a
18 written statement that the alleged violations have been cured and
19 sufficient measures have been taken to prevent future violations,
20 the covered entity shall not be liable for a civil penalty for any
21 violation cured pursuant to this subsection.

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

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

4 This act shall not apply to:

5 A. Protected health information that is collected by a covered
6 entity associate governed by the privacy, security and breach
7 notification rules issued by the United States Department of Health
8 and Human Services, Parts 160 and 164 of Title 45 of the Code of
9 Federal Regulations, established pursuant to the federal Health
10 Insurance Portability and Accountability Act of 1996.

11 B. A covered entity governed by the privacy, security and
12 breach notification rules issued by the United States Department of
13 Health and Human Services, Parts 160 and 164 of Title 45 of the Code
14 of Federal Regulations, established pursuant to the federal Health
15 Insurance Portability and Accountability Act of 1996, to the extent
16 the provider or covered entity maintains patient information in the
17 same manner as medical information or protected health information
18 as described in subsection A of this section.

19 C. Information collected as part of a clinical trial subject to
20 the federal policy for the protection of human subjects, also known
21 as the common rule, pursuant to good clinical practice guidelines
22 issued by the International Council for Harmonization of Technical
23 Requirements for Pharmaceuticals for Human Use or pursuant to human
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1 subject protection requirements of the United States Food and Drug
2 Administration.

3 D. A telecommunications service as defined in 47 U.S.C. Section
4 153.

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

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

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

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

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

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

16 SECTION 7. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 8007 of Title 10, unless there
18 is created a duplication in numbering, reads as follows:

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

23 1. Controlled or processed the personal data of not fewer than
24 one hundred thousand (100,000) consumers, excluding personal data

1 controlled or processed solely for the purpose of completing a
2 payment transaction; or

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

7 B. This act does not apply to an online product, service, or
8 feature that is not accessible by the public after December 31,
9 2025.

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

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