

MASSACHUSETTS DATA PRIVACY & PROTECTION ACT

H. 83 (REPS. VARGAS/ROGERS) & S.25 (SEN. CREEM)

Massachusetts needs a comprehensive privacy law that protects us all from intrusive data collection and use, establishes meaningful oversight of AI, and extends civil rights online.

BACKGROUND

The Massachusetts Data Privacy and Protection Act is based on bipartisan federal legislation, the American Data Privacy and Protection Act ("ADPPA"). Members of Congress, industry, and civil rights, privacy, and consumer protection heavily negotiated ADPPA over several years, and it was favorably reported by the House Energy & Commerce Committee on a 53-2 vote. Congress has failed to enact the federal privacy bill, but MA legislators can now step in to deliver on this important issue by modeling their privacy law on the bipartisan consensus language from the ADPPA. The MDPPA provides that opportunity.

WHY THIS IS IMPORTANT

Massachusetts needs a comprehensive privacy law because commercial surveillance practices have reached crisis levels. Digital giants track nearly every every website we visit, place we go, and friend we connect with to feed detailed profiles used to target us in myriad ways. This surveillance and profiling has shifted the balance of power in favor of these digital giants and even threatens to undermine our democratic institutions. This tracking and profiling is especially harmful to marginalized communities, fostering discrimination and inequities in employment, government services, healthcare, education, and other life necessities. It does not have to be this way. Massachusetts can have a strong technology sector while protecting privacy.

KEY PROVISIONS

LIMITS ON DATA COLLECTION & USE

MDPPA establishes limits on the unfettered processing of personal data by setting a baseline requirement that entities only collect, use, and transfer data that is reasonably necessary to provide a product or service (or for certain enumerated purposes). This is referred to as "data minimization." Even stricter limits are put on sensitive data such as health and location data. Targeted advertising to kids and teens is prohibited.

CIVIL RIGHTS ONLINE

MDPPA extends civil rights to online spaces by prohibiting entities from processing data in a way that discriminates or otherwise makes unavailable the equal enjoyment of goods and services on the basis of race, color, religion, national origin, sex, sexual orientation, gender, or disability.

ALGORITHMIC FAIRNESS & TRANSPARENCY

Artificial intelligence and machine learning systems are being deployed in opaque and unaccountable ways that can harm individuals and exacerbate biases. MDPPA requires companies to assess the impact of certain high risk AI systems and implement mitigation measures to avoid potential harms. These assessments are subject to review by the Attorney General, and the company must also post a public summary.

For more information, contact Caitriona Fitzgerald, EPIC Deputy Director at fitzgerald@epic.org

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