



May 23, 2024

Governor Phil Scott
109 State Street, Pavilion
Montpelier, VT 05609

Re: Sign H. 121, the Vermont Data Privacy Act

Dear Governor Scott,

The undersigned organizations and individuals urge you to sign H. 121, the Vermont Data Privacy Act, which contains some of the strongest state-level privacy rules in the nation. Signing the Vermont Data Privacy Act would extend to Vermont consumers critical new privacy protections, including default limits on businesses' collection of information through a data minimization standard, a ban on the sale of sensitive data, strong civil rights protections, and the right for individuals to seek redress in courts when large businesses violate the law. H. 121 received wide-ranging support from Vermont legislators of all political parties, demonstrating how vital this legislation is to protect Vermonters' privacy.

These protections are far overdue; the current digital landscape produces, with frightening regularity, concrete harms to consumers and is leading to the erosion of our basic expectation of privacy. Reproductive health apps¹ and hospital websites² have been caught sharing users' sensitive health

¹ Catherine Roberts, These Period Tracker Apps Say They Put Privacy First. Here's What We Found, Consumer Reports, (August 30, 2022), <https://www.consumerreports.org/health/health-privacy/period-tracker-apps-privacy-a2278134145/>

² Todd Feathers, Simon Fondrie-Teitler, Angie Waller, and Surya Mattu, Facebook Is Receiving Sensitive Medical Information from Hospital Websites, The Markup (July 16, 2022), <https://themarkup.org/pixel-hunt/2022/06/16/facebook-is-receiving-sensitive-medical-information-from-hospital-websites>

information with large social media platforms – risking the potential for embarrassment, stigmatization, or even criminalization. Retail stores,³ websites, and apps track our every move in order to segment us into hyper-granularized marketing categories, using data to make inferences about us or our lifestyles (like that we are “economically anxious elders,” “heavy purchasers of pregnancy tests,” or “frequently depressed”)⁴ that are ultimately used to target us with advertisements. Several car manufacturers were recently alleged to be surreptitiously sharing driver information with data brokers who then sold the information to insurance companies that, in some cases, used the information to raise consumers’ premiums.⁵ Facial recognition companies like Clearview AI have exploited lax privacy standards to amass databases of billions of images that allow any person to instantaneously identify any other person and associate them with other personal details, all with just a single image.⁶

H. 121 creates important guardrails that would help prevent such abuses and ensure that companies must abide by a basic respect for consumer privacy. Signing the Vermont Data Privacy Act would position Vermont as a leader in providing meaningful privacy protections for consumers, alongside Maryland, which passed a similar privacy law this session. Enacting H. 121 would make Vermont the 18th state to adopt a privacy law while recognizing the time and effort the Vermont Legislature put into tailoring privacy legislation to fit the needs of Vermonters. In particular, the Vermont Data Privacy Act would:

Place default limits on businesses’ collection of information.

The bill’s data minimization provisions will help rein in the systemic over-collection of consumers’ personal information by requiring that collection of consumers’ personal information must be “reasonably necessary and proportionate to provide or maintain a specific product or service requested by the consumer to whom the data pertains.” This is a basic privacy hygiene standard that will help eliminate common practices that have contributed to, among other things, the persistent drip of massive data breaches that expose consumers’ personal information to criminals, stalkers, and other unwanted third-parties.

Ban the sale of sensitive data.

Companies should not be profiting from the sale of consumers’ most personal data, such as children’s data or data about a consumer’s race, religion, sex life, precise geolocation, or health. The bill appropriately bans this behavior.

³ Jon Keegan, Forget Milk and Eggs: Supermarkets Are Having a Fire Sale on Data About You, The Markup, (February 16, 2023),

<https://themarkup.org/privacy/2023/02/16/forget-milk-and-eggs-supermarkets-are-having-a-fire-sale-on-data-about-you>

⁴ Jon Keegan and Joel Eastwood, From “Heavy Purchasers” of Pregnancy Tests to the Depression-Prone: We Found 650,000 Ways Advertisers Label You, The Markup, (June 8, 2023),

<https://themarkup.org/privacy/2023/06/08/from-heavy-purchasers-of-pregnancy-tests-to-the-depression-prone-we-found-650000-ways-advertisers-label-you>

⁵ Kashmir Hill, Automakers Are Sharing Consumers’ Driving Behavior With Insurance Companies, New York Times, (March 13, 2024), <https://www.nytimes.com/2024/03/11/technology/carmakers-driver-tracking-insurance.html>

⁶ Kashmir Hill, The Secretive Company That Might End Privacy as We Know It, New York Times, (November 2, 2021), <https://www.nytimes.com/2020/01/18/technology/clearview-privacy-facial-recognition.html>

Institute strong civil rights protections.

A key harm observed in the digital marketplace today is the disparate impact that can occur through processing of personal data for the purpose of creating granularized profiles of individuals based off of data both collected and inferred about them. Therefore, a crucial piece of strong privacy legislation is ensuring that a business' processing of personal data does not discriminate against or otherwise make opportunity or public accommodation unavailable on the basis of protected classes. We appreciate that the bill contains specific language prohibiting the use of personal information to discriminate against consumers.

Create a right for individuals to seek redress in courts when large businesses violate the law.

The Vermont Data Privacy Act allows for individuals to sue data brokers and large data holders (defined as companies that have collected 100,000 or more Vermont residents' personal data) when they have violated certain provisions of the law relating to sensitive data and consumer health data. This is a reasonable compromise that will ensure that the largest companies will be properly incentivized to comply with the law and that consumers can vindicate their rights relating to their most personal information, all while ensuring that Vermont's local businesses will still be able to compete while they get up to speed with the new law.

Governor Scott, we urge you to protect your constituents' privacy rights by signing this critical legislation into law.

Sincerely,

Organizations

Center for Democracy and Technology
Center for Digital Democracy
Clearly TV
Consumer Reports
Electronic Privacy Information Center (EPIC)

Encode Justice
Restore the Fourth
U.S. Public Interest Research Group (PIRG)
VPIRG
Vermont Womenpreneuers

Representatives

Rep. Peter Anthony
Rep. Tiffany Bluemle

Rep. Erin Brady
Rep. Mollie Burke

Rep. Jim Carroll
Rep. Sara Coffey
Rep. Karen Dolan
Rep. Bobby Farlice-Rubio
Rep. Stephanie Jerome
Rep. Josie Leavitt

Rep. Kate McCann
Rep. Logan Nicoll
Rep. Monique Priestley
Rep. Avram Pa
Rep. Larry Satcowitz
Rep. Jonathan Williams

Individuals

Emily Ahtunan, Montpelier
Matthew Anderson, Orwell
Mary Andes, Richmond
Cynthia Baehr, Putney
Lucinda Blakeslee, Bradford
Linda Bryan, Newbury
Evan Carlson, Sutton
Rebecca Castellano, Bethel
Rajan Chawla, Essex Jct.
Stephen Chisa, Burlington
Miranda Clemson, Fairlee
Greta D'Agostino, Williston
Laura Derrenderinger, Middletown Springs
Laura Derrenderinger, Middletown Springs
Patrick Dowd, Lyme (NH)
Jennifer Dukehart, Bristol
Elizabeth Friend, Bradford
Paula Gilrain, Bradford
Terry Greywolf, Vernon
Adrian Gropper, Arlington (MA)
Dr. Aili Jones, Middlebury

Isaiah Kirk, Fair Haven
Katherine Knish, Bradford
Suzanne Krohn, South Burlington
Kyle Lawson, Bradford
Ryan Lockwood, Bradford
Wayne Maceyka, Hinesburg
Becca Mandigo, Marshfield
Dr. Pat McLaine, Windham
Alan McLaine, Windham
Amanda Mowle, Orwell
Margaret Mowle, Killington
Walter Mowle, Killington
Elizabeth Murphy, Waterford
Ann O'Connor, West Fairlee
Wendy Rice, Burlington
Joanne Scannevin, Killington
Heather Thomas, Wells
Diana Weston, Barre
Erin Wetherell, East Thetford
David Young, Bennington
Professor Shoshana Zuboff, Nobleboro (ME)