

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 59.1-575 of the Code of Virginia and to amend the Code of Virginia by*  
 3 *adding a section numbered 59.1-577.1, relating to Consumer Data Protection Act; social media*  
 4 *platforms; responsibilities and prohibitions related to minors.*

5 [S 854]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That § 59.1-575 of the Code of Virginia is amended and reenacted and that the Code of Virginia is**  
 9 **amended by adding a section numbered 59.1-577.1 as follows:**

10 **§ 59.1-575. Definitions.**

11 As used in this chapter, unless the context requires a different meaning:

12 "Affiliate" means a legal entity that controls, is controlled by, or is under common control with another  
 13 legal entity or shares common branding with another legal entity. For the purposes of this definition,  
 14 "control" or "controlled" means (i) ownership of, or the power to vote, more than 50 percent of the  
 15 outstanding shares of any class of voting security of a company; (ii) control in any manner over the election  
 16 of a majority of the directors or of individuals exercising similar functions; or (iii) the power to exercise  
 17 controlling influence over the management of a company.

18 "Authenticate" means verifying through reasonable means that the consumer, entitled to exercise his  
 19 consumer rights in § 59.1-577, is the same consumer exercising such consumer rights with respect to the  
 20 personal data at issue.

21 "Biometric data" means data generated by automatic measurements of an individual's biological  
 22 characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or  
 23 characteristics that is used to identify a specific individual. "Biometric data" does not include a physical or  
 24 digital photograph, a video or audio recording or data generated therefrom, or information collected, used, or  
 25 stored for health care treatment, payment, or operations under HIPAA.

26 "Business associate" means the same meaning as the term established by HIPAA.

27 "Child" means any natural person younger than 13 years of age.

28 "Consent" means a clear affirmative act signifying a consumer's freely given, specific, informed, and  
 29 unambiguous agreement to process personal data relating to the consumer. Consent may include a written  
 30 statement, including a statement written by electronic means, or any other unambiguous affirmative action.

31 "Consumer" means a natural person who is a resident of the Commonwealth acting only in an individual  
 32 or household context. It does not include a natural person acting in a commercial or employment context.

33 "Controller" means the natural or legal person that, alone or jointly with others, determines the purpose  
 34 and means of processing personal data.

35 "Covered entity" means the same as the term is established by HIPAA.

36 "Decisions that produce legal or similarly significant effects concerning a consumer" means a decision  
 37 made by the controller that results in the provision or denial by the controller of financial and lending  
 38 services, housing, insurance, education enrollment, criminal justice, employment opportunities, health care  
 39 services, or access to basic necessities, such as food and water.

40 "De-identified data" means data that cannot reasonably be linked to an identified or identifiable natural  
 41 person, or a device linked to such person. A controller that possesses "de-identified data" shall comply with  
 42 the requirements of subsection A of § 59.1-581.

43 "Health record" means the same as that term is defined in § 32.1-127.1:03.

44 "Health care provider" means the same as that term is defined in § 32.1-276.3.

45 "HIPAA" means the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. §  
 46 1320d et seq.).

47 "Identified or identifiable natural person" means a person who can be readily identified, directly or  
 48 indirectly.

49 "Institution of higher education" means a public institution and private institution of higher education, as  
 50 those terms are defined in § 23.1-100.

51 "Nonprofit organization" means any corporation organized under the Virginia Nonstock Corporation Act  
 52 (§ 13.1-801 et seq.) or any organization exempt from taxation under § 501(c)(3), 501(c)(6), or 501(c)(12) of  
 53 the Internal Revenue Code, any political organization, any organization exempt from taxation under §  
 54 501(c)(4) of the Internal Revenue Code that is identified in § 52-41, and any subsidiary or affiliate of entities  
 55 organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

56 "Online service, product, or feature" means any service, product, or feature that is provided online.

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57 "Online service, product, or feature" does not include telecommunications service, as defined in 47 U.S.C. §  
 58 153, broadband Internet access service, as defined in 47 C.F.R. § 54.400, or delivery or use of a physical  
 59 product.

60 *"Parent" means a parent or legal guardian of a child or minor.*

61 "Personal data" means any information that is linked or reasonably linkable to an identified or identifiable  
 62 natural person. "Personal data" does not include de-identified data or publicly available information.

63 "Political organization" means a party, committee, association, fund, or other organization, whether or not  
 64 incorporated, organized and operated primarily for the purpose of influencing or attempting to influence the  
 65 selection, nomination, election, or appointment of any individual to any federal, state, or local public office or  
 66 office in a political organization or the election of a presidential/vice-presidential elector, whether or not such  
 67 individual or elector is selected, nominated, elected, or appointed.

68 "Precise geolocation data" means information derived from technology, including but not limited to global  
 69 positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the  
 70 specific location of a natural person with precision and accuracy within a radius of 1,750 feet. "Precise  
 71 geolocation data" does not include the content of communications or any data generated by or connected to  
 72 advanced utility metering infrastructure systems or equipment for use by a utility.

73 "Process" or "processing" means any operation or set of operations performed, whether by manual or  
 74 automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure,  
 75 analysis, deletion, or modification of personal data.

76 "Processor" means a natural or legal entity that processes personal data on behalf of a controller.

77 "Profiling" means any form of automated processing performed on personal data to evaluate, analyze, or  
 78 predict personal aspects related to an identified or identifiable natural person's economic situation, health,  
 79 personal preferences, interests, reliability, behavior, location, or movements.

80 "Protected health information" means the same as the term is established by HIPAA.

81 "Pseudonymous data" means personal data that cannot be attributed to a specific natural person without  
 82 the use of additional information, provided that such additional information is kept separately and is subject  
 83 to appropriate technical and organizational measures to ensure that the personal data is not attributed to an  
 84 identified or identifiable natural person.

85 "Publicly available information" means information that is lawfully made available through federal, state,  
 86 or local government records, or information that a business has a reasonable basis to believe is lawfully made  
 87 available to the general public through widely distributed media, by the consumer, or by a person to whom  
 88 the consumer has disclosed the information, unless the consumer has restricted the information to a specific  
 89 audience.

90 "Sale of personal data" means the exchange of personal data for monetary consideration by the controller  
 91 to a third party. "Sale of personal data" does not include:

92 1. The disclosure of personal data to a processor that processes the personal data on behalf of the  
 93 controller;

94 2. The disclosure of personal data to a third party for purposes of providing a product or service requested  
 95 by the consumer;

96 3. The disclosure or transfer of personal data to an affiliate of the controller;

97 4. The disclosure of information that the consumer (i) intentionally made available to the general public  
 98 via a channel of mass media and (ii) did not restrict to a specific audience; or

99 5. The disclosure or transfer of personal data to a third party as an asset that is part of a merger,  
 100 acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the  
 101 controller's assets.

102 "Sensitive data" means a category of personal data that includes:

103 1. Personal data revealing racial or ethnic origin, religious beliefs, mental or physical health diagnosis,  
 104 sexual orientation, or citizenship or immigration status;

105 2. The processing of genetic or biometric data for the purpose of uniquely identifying a natural person;

106 3. The personal data collected from a known child; or

107 4. Precise geolocation data.

108 *"Social media platform" means a public or semipublic Internet-based service or application that has  
 109 users in the Commonwealth and that meets the following criteria:*

110 1. *Connects users in order to allow users to interact socially with each other within such service or  
 111 application. No service or application that exclusively provides email or direct messaging services shall be  
 112 considered to meet this criterion on the basis of that function alone; and*

113 2. *Allows users to do all of the following:*

114 a. *Construct a public or semipublic profile for purposes of signing into and using such service or  
 115 application;*

116 b. *Populate a public list of other users with whom such user shares a social connection within such  
 117 service or application; and*

118 c. *Create or post content viewable by other users, including content on message boards, in chat rooms, or*

119 *through a landing page or main feed that presents the user with content generated by other users. No service*  
 120 *or application that consists primarily of news, sports, entertainment, ecommerce, or content preselected by*  
 121 *the provider and not generated by users, and for which any chat, comments, or interactive functionality is*  
 122 *incidental to, directly related to, or dependent on the provision of such content, or that is for interactive*  
 123 *gaming, shall be considered to meet this criterion on the basis of that function alone.*

124 "State agency" means the same as that term is defined in § 2.2-307.

125 "Targeted advertising" means displaying advertisements to a consumer where the advertisement is  
 126 selected based on personal data obtained from that consumer's activities over time and across nonaffiliated  
 127 websites or online applications to predict such consumer's preferences or interests. "Targeted advertising"  
 128 does not include:

- 129 1. Advertisements based on activities within a controller's own websites or online applications;
- 130 2. Advertisements based on the context of a consumer's current search query, visit to a website, or online  
 131 application;
- 132 3. Advertisements directed to a consumer in response to the consumer's request for information or  
 133 feedback; or
- 134 4. Processing personal data processed solely for measuring or reporting advertising performance, reach, or  
 135 frequency.

136 "Third party" means a natural or legal person, public authority, agency, or body other than the consumer,  
 137 controller, processor, or an affiliate of the processor or the controller.

138 "User" means a person not acting as an agent of a controller or processor.

139 **§ 59.1-577.1. Social media platforms; responsibilities and prohibitions related to minors.**

140 A. For purposes of this section, "minor" means any natural person younger than 16 years of age.

141 B. Any controller or processor that operates a social media platform shall (i) use commercially  
 142 reasonable methods, such as a neutral age screen mechanism, to determine whether a user is a minor and (ii)  
 143 limit a minor's use of such social media platform to one hour per day, per service or application, and allow a  
 144 parent to give verifiable parental consent to increase or decrease the daily time limit.

145 C. Information collected for the purpose of determining a user's age shall not be used for any purpose  
 146 other than age determination and provision of age-appropriate experiences. For purposes of this section, any  
 147 controller or processor that operates a social media platform shall treat a user as a minor if the user's device  
 148 communicates or signals that the user is or shall be treated as a minor, including through a browser plug-in  
 149 or privacy setting, device setting, or other mechanism.

150 D. Nothing in this section shall be construed as requiring any controller or processor that operates a  
 151 social media platform to give a parent who grants verifiable parental consent pursuant to subsection B any  
 152 additional or special access to or control over the data or accounts of the minor.

153 E. No controller or processor that operates a social media platform shall withhold, degrade, lower the  
 154 quality of, or increase the price of any online service, product, or feature to a user due to the controller or  
 155 processor not being permitted to provide use of such social media platform beyond the one hour per day, per  
 156 service or application, daily time limit under subsection B. However, nothing in this section shall be  
 157 construed as (i) requiring a social media platform to provide an online service, product, or feature that  
 158 requires the personal information of a known minor or (ii) prohibiting a social media platform from offering  
 159 a different price, rate, level, quality, or selection of goods or services to a known minor, including offering  
 160 goods or services for no fee, if such behavior is reasonably related to the exercise of rights pursuant to or  
 161 compliance with the requirements of this chapter.

162 **2. That the provisions of this act shall become effective on January 1, 2026.**