

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

HOUSE BILL 1030

By: West (Josh)

AS INTRODUCED

An Act relating to privacy of computer data; enacting the Oklahoma Computer Data Privacy Act; defining terms; providing for applicability of act to certain businesses that collect consumers' personal information; providing exemptions; prescribing compliance with other laws and legal proceedings; requiring act to be liberally construed to align its effects with other laws relating to privacy and protection of personal information; providing for controlling effect of federal law; providing for construction in event of conflict with state law; providing for controlling effect of law which provides greatest privacy or protection to consumers; providing for preemption of local law; providing consumers right to request disclosure of certain information; providing consumers right to request deletion of certain information; providing consumers the right to request and receive a disclosure of personal information sold or disclosed; providing consumers right to opt in and out of the sale of personal information; making legislative findings; providing contracts or other agreements purporting to waive or limit a right, remedy or means of enforcement contrary to public policy; requiring businesses collecting consumer data information inform consumer of certain information collected; prescribing required content of disclosures; requiring consumer consent; requiring businesses to provide online privacy policy or a notice of policies; requiring businesses to designate and make available methods for submitting verifiable consumer request for certain information; requiring businesses receiving verifiable consumer requests reasonably verify identity of requesting consumer; requiring businesses disclose required information within a

certain period; requiring businesses using de-identified information not re-identify or attempt to re-identify certain consumers; requiring permission; prohibiting discrimination against consumers for exercise of rights; authorizing businesses to offer financial incentives to consumers for collection, sale or disclosure of personal information; prohibiting division of single transactions; requiring employee training with respect to consumer inquiries; requiring disclosure of certain rights, requirements and information; providing civil penalties; authorizing Oklahoma Attorney General to take certain actions based on violations; authorizing Attorney General to recover reasonable expenses incurred in obtaining injunctive relief or civil penalties; directing Attorney General to deposit collected penalties in a dedicated account in the General Revenue Fund; providing certain immunities; providing protections to service providers; providing for codification; and providing an effective date.

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 901.1 of Title 17, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Computer Data Privacy Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.2 of Title 17, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Aggregate consumer information" means information that relates to a group or category of consumers from which individual consumer identities have been removed and that is not linked or reasonably linkable to a particular consumer or household, including through a device. The term does not include one or more individual consumer records that have been de-identified;

2. "Biometric information" means an individual's physiological, biological or behavioral characteristics that can be used, alone or in combination with other characteristics or other identifying data, to establish the individual's identity. The term includes:

- a. an image of an iris, retina, fingerprint, face, hand, palm or vein pattern or a voice recording from which an identifier template can be extracted such as a faceprint, minutiae template or voiceprint,
- b. keystroke patterns or rhythms,
- c. gait patterns or rhythms, and
- d. sleep, health or exercise data that contains identifying information;

3. "Business" means a for-profit entity, including a sole proprietorship, partnership, limited liability company, corporation, association or other legal entity that is organized or operated for the profit or financial benefit of the entity's shareholders or other owners, but does not include Internet service providers so long as they are acting in their role as Internet service providers;

4. "Business purpose" means the use of personal information for:

a. the following operational purposes of a business or service provider, provided that the use of the information is reasonably necessary and proportionate to achieve the operational purpose for which the information was collected or processed or another operational purpose that is compatible with the context in which the information was collected:

- (1) auditing related to a current interaction with a consumer and any concurrent transactions, including counting ad impressions of unique visitors, verifying the positioning and quality of ad impressions, and auditing compliance with a specification or other standards for ad impressions,
- (2) detecting a security incident, protecting against malicious, deceptive, fraudulent or illegal activity, and prosecuting those responsible for any illegal activity described by this division,
- (3) identifying and repairing or removing errors that impair the intended functionality of computer hardware or software,

- (4) using personal information in the short term or for a transient use, provided that the information is not:
 - (a) disclosed to a third party, and
 - (b) used to build a profile about a consumer or alter an individual consumer's experience outside of a current interaction with the consumer, including the contextual customization of an advertisement displayed as part of the same interaction,
- (5) performing a service on behalf of the business or service provider, including:
 - (a) maintaining or servicing an account, providing customer service, processing or fulfilling an order or transaction, verifying customer information, processing a payment, providing financing, providing advertising or marketing services, or providing analytic services, or
 - (b) performing a service similar to a service described by subdivision (a) of this division on behalf of the business or service provider,

- (6) undertaking internal research for technological development and demonstration,
 - (7) undertaking an activity to:
 - (a) verify or maintain the quality or safety of a service or device that is owned by, manufactured by, manufactured for or controlled by the business, or
 - (b) improve, upgrade or enhance a service or device described by subdivision (a) of this division, or
 - (8) retention of employment data, or
- b. another operational purpose for which notice is given under this act, but specifically excepting cross-context targeted advertising, unless the customer has opted in to the same;

5. "Collect" means to buy, rent, gather, obtain, receive or access the personal information of a consumer by any means, including by actively or passively receiving the information from the consumer or by observing the consumer's behavior;

6. "Commercial purpose" means a purpose that is intended to result in a profit or other tangible benefit or the advancement of a person's commercial or economic interests, such as by inducing another person to buy, rent, lease, subscribe to, provide or exchange products, goods, property, information or services or by

enabling or effecting, directly or indirectly, a commercial transaction. The term does not include the purpose of engaging in speech recognized by state or federal courts as noncommercial speech, including political speech and journalism;

7. "Consumer" means an individual who is a resident of this state;

8. "De-identified information" means information that cannot reasonably identify, relate to, describe, be associated with, or be linked to, directly or indirectly, a particular consumer;

9. "Device" means any physical object capable of connecting to the Internet, directly or indirectly, or to another device;

10. "Genetic Information" means any information, regardless of its format, that concerns a consumer's genetic characteristics. Genetic information includes, but is not limited to:

- a. raw sequence data that result from sequencing of a consumer's complete extracted or a portion of the extracted DNA,
- b. genotypic and phenotypic information that results from analyzing the raw sequence data, and
- c. self-reported health information that consumer submits to a company regarding the consumer's health conditions and that is used for scientific research or product development and analyzed in connection with the consumer's raw sequence data;

11. "Identifier" means data elements or other information that alone or in conjunction with other information can be used to identify a particular consumer, household or device that is linked to a particular consumer or household;

12. "Internet service provider" means a person who provides a mass-market retail service by wire or radio that provides the capability to transmit data and to receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operations of the service, excluding dial-up Internet access service;

13. "Person" means an individual, sole proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee and any other organization or group of persons acting in concert;

14. "Personal information" means information that identifies, relates to, describes, can be associated with or can reasonably be linked to, directly or indirectly, a particular consumer or household. The term includes the following categories of information if the information identifies, relates to, describes, can be associated with or can reasonably be linked to, directly or indirectly, a particular consumer or household:

- a. an identifier, including a real name, alias, mailing address, account name, date of birth, driver license number, unique identifier, Social Security number,

- passport number, signature, telephone number or other government-issued identification number, or other similar identifier,
- b. an online identifier, including an electronic mail address or Internet Protocol address, or other similar identifier,
 - c. a physical characteristic or description, including a characteristic of a protected classification under state or federal law,
 - d. commercial information, including:
 - (1) a record of personal property,
 - (2) a good or service purchased, obtained or considered,
 - (3) an insurance policy number, or
 - (4) other purchasing or consuming histories or tendencies,
 - e. biometric information and genetic information,
 - f. Internet or other electronic network activity information, including:
 - (1) browsing or search history, and
 - (2) other information regarding a consumer's interaction with an Internet website, application or advertisement,
 - g. geolocation data,

- h. audio, electronic, visual, thermal, olfactory or other similar information,
- i. professional or employment-related information,
- j. education information that is not publicly available that includes personally identifiable information under the federal Family Educational Rights and Privacy Act of 1974,
- k. financial information, including a financial institution account number, credit or debit card number, or password or access code associated with a credit or debit card or bank account,
- l. medical information,
- m. health insurance information, or
- n. inferences drawn from any of the information listed under this paragraph to create a profile about a consumer that reflects the consumer's preferences, characteristics, psychological trends, predispositions, behavior, attitudes, intelligence, abilities or aptitudes;

15. "Processing information" means performing any operation or set of operations on personal data or on sets of personal data, whether or not by automated means;

16. "Pseudonymize" or "pseudonymization" means the processing of personal information in a manner that renders the personal

information no longer attributable to a specific consumer without the use of additional information, provided that the additional information is kept separately and is subject to technical and organizational measures to ensure that the personal information is not attributed to an identified or identifiable consumer;

17. "Publicly available information" means information that is lawfully made available to the public from federal, state or local government records or information received from widely distributed media or by the consumer in the public domain. The term does not include:

- a. biometric information or genetic information of a consumer collected by a business without the consumer's knowledge or consent, or
- b. de-identified or aggregate consumer information;

18. "Service provider" means a for-profit entity as described by paragraph 3 of this section that processes information on behalf of a business and to which the business discloses, for a business purpose, a consumer's personal information under a written contract, provided that the contract prohibits the entity receiving the information from retaining, using or disclosing the information for any purpose other than:

- a. providing the services specified in the contract with the business, or

- b. for a purpose permitted by this act, including for a commercial purpose other than providing those specified services;

19. "Third party" means a person who is not:

- a. a business to which this act applies that collects personal information from consumers, or

- b. a person to whom the business discloses, for a business purpose, a consumer's personal information under a written contract, provided that the contract:

- (1) prohibits the person receiving the information from:

- (a) selling the information,

- (b) retaining, using or disclosing the information for any purpose other than providing the services specified in the contract, including for a commercial purpose other than providing those services, and

- (c) retaining, using or disclosing the information outside of the direct business relationship between the person and the business, and

- (2) includes a certification made by the person receiving the personal information that the person understands and will comply with the

prohibitions under division (1) of this
subparagraph;

20. "Unique identifier" means a persistent identifier that can be used over time and across different services to recognize a consumer, a custodial parent or guardian, or any minor children over which the parent or guardian has custody, or a device that is linked to those individuals. The term includes:

- a. a device identifier,
- b. an Internet Protocol address,
- c. a cookie, beacon, pixel tag, mobile ad identifier or similar technology,
- d. a customer number, unique pseudonym or user alias,
- e. a telephone number, and
- f. another form of a persistent or probabilistic identifier that can be used to identify a particular consumer or device;

21. "Verifiable consumer request" means a request:

- a. that is made by a consumer, a consumer on behalf of the consumer's minor child, or a natural person or person who is authorized by a consumer to act on the consumer's behalf, and
- b. that a business can reasonably verify, in accordance with Section 19 of this act, was submitted by the

consumer about whom the business has collected
personal information; and

22. "Consent" means an act that clearly and conspicuously communicates the individual's authorization of an act or practice that is made in the absence of any mechanism in the user interface that has the purpose or substantial effect of obscuring, subverting or impairing decision-making or choice to obtain consent.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.3 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. This act applies only to:

1. A business that:

- a. does business in this state,
- b. collects consumers' personal information or has that information collected on the business's behalf,
- c. alone or in conjunction with others, determines the purpose for and means of processing consumers' personal information, and
- d. satisfies one or more of the following thresholds:
 - (1) has annual gross revenue in an amount that exceeds Fifteen Million Dollars (\$15,000,000.00),
 - (2) alone or in combination with others, annually buys, sells or receives or shares for commercial purposes the personal information of fifty

thousand or more consumers, households or devices, or

- (3) derives twenty-five percent (25%) or more of the business's annual revenue from selling consumers' personal information; and

2. An entity that controls or is controlled by a business described by paragraph 1 of this subsection and that shares the same or substantially similar brand name and/or common database for consumers' personal information. For purposes of this paragraph, "control" means the:

- a. ownership of, or power to vote, more than fifty percent (50%) of the outstanding shares of any class of voting security of a business,
- b. control in any manner over the election of a majority of the directors or of individuals exercising similar functions, or
- c. power to exercise a controlling influence over the management of a company.

B. For purposes of this act, a business sells a consumer's personal information to another business or a third party if the business sells, rents, discloses, disseminates, makes available, transfers or otherwise communicates, orally, in writing, or by electronic or other means, the information to the other business or third party for monetary or other valuable consideration.

C. For purposes of this act, a business does not sell a consumer's personal information if:

1. The consumer directs the business to intentionally disclose the information or uses the business to intentionally interact with a third party, provided that the third party does not sell the information, unless that disclosure is consistent with this act; or

2. The business:

a. uses or shares an identifier of the consumer to alert a third party that the consumer has opted out of the sale of the information,

b. uses or shares with a service provider a consumer's personal information that is necessary to perform a business purpose if:

(1) the business provided notice that the information is being used or shared in the business's terms and conditions consistent with Sections 13 and 17 of this act, and

(2) the service provider does not further collect, sell or use the information except as necessary to perform the business purpose, or

c. transfers to a third party a consumer's personal information as an asset that is part of a merger, acquisition, bankruptcy or other transaction in which the third party assumes control of all or part of the

business, provided that information is used or shared consistent with this act.

D. For purposes of paragraph 1 of subsection C of this section, an intentional interaction occurs if the consumer does one or more deliberate acts with the intent to interact with a third party. Placing a cursor over, muting, pausing or closing online content does not constitute a consumer's intent to interact with a third party. Instead, said deliberate act must be consent to such interaction as defined herein.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.4 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. This act does not apply to:

1. Publicly available information;
2. Medical information governed by state privacy health laws or protected health information that is collected by a covered entity or business associate governed by the privacy, security and data breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and the federal Health Information Technology for Economic and Clinical Health Act, Title XIII of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5);

3. A provider of health care, or a health plan, governed by state privacy health laws or a covered entity governed by the privacy, security and data breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), to the extent the provider or covered entity maintains, uses and discloses patient information in the same manner as medical information or protected health information as described in paragraph 2 of this subsection;

4. A business associate of a covered entity governed by the privacy, security and data breach notification rules issued by the United States Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and the federal Health Information Technology for Economic and Clinical Health Act, Title XIII of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), to the extent that the business associate maintains, uses and discloses patient information in the same manner as medical information or protected health information as described in paragraph 2 of this subsection;

5. Information that meets both of the following conditions:

- a. is de-identified in accordance with the requirements for de-identification set forth in Section 164.514 of Part 164 of Title 45 of the Code of Federal Regulations, and
- b. is derived from patient information that was originally collected, created, transmitted or maintained by an entity regulated by the Health Insurance Portability and Accountability Act of 1996 or the Federal Policy for the Protection of Human Subjects, also known as the Common Rule.

Information that meets the requirements of subparagraph a or b of this paragraph but is subsequently re-identified shall no longer be eligible for the exemption in this paragraph and shall be subject to applicable federal and state data privacy and security laws, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 and state medical privacy laws;

6. Information that is collected, used or disclosed in research, as defined in Section 164.501 of Title 45 of the Code of Federal Regulations, including, but not limited to, a clinical trial, and that is conducted in accordance with applicable ethics, confidentiality, privacy and security rules of Part 164 of Title 45 of the Code of Federal Regulations, the Federal Policy for the Protection of Human Subjects, also known as the Common Rule, good clinical practice guidelines issued by the International Council for

Harmonization, or human subject protection requirements of the United States Food and Drug Administration;

7. The sale of personal information to or by a consumer reporting agency if the information is to be:

- a. reported in or used to generate a consumer report, as defined by Section 1681a(d) of the Fair Credit Reporting Act (15 U.S.C., Section 1681 et seq.), and
- b. used solely for a purpose authorized under that act;

8. Personal information collected, processed, sold or disclosed in accordance with:

- a. the federal Gramm-Leach-Bliley Act of 1999 (Public Law 106-102) and its implementing regulations, or
- b. the federal Driver's Privacy Protection Act of 1994 (18 U.S.C., Section 2721 et seq.);

9. De-identified or aggregate consumer information; or

10. A consumer's personal information collected or sold by a business, if every aspect of the collection or sale occurred wholly outside of this state.

Provided further, nothing in this act shall be deemed to apply in any manner to a financial institution or an affiliate of a financial institution that is subject to the federal Gramm-Leach-Bliley Act of 1999 and the rules promulgated thereunder.

B. For the purposes of this section, a business or other person shall not re-identify, or attempt to re-identify, information that

has met the requirements of paragraphs 2 through 6 of subsection A of this section, except for one or more of the following purposes:

1. Treatment, payment or health care operations conducted by a covered entity or business associate acting on behalf of, and at the written direction of, the covered entity. For purposes of this paragraph, "treatment", "payment", "health care operations" and "covered entity" have the same meaning as defined in Section 164.501 of Title 45 of the Code of Federal Regulations, and "business associate" has the same meaning as defined in Section 160.103 of Title 45 of the Code of Federal Regulations;

2. Public health activities or purposes as described in Section 164.512 of Title 45 of the Code of Federal Regulations;

3. Research, as defined in Section 164.501 of Title 45 of the Code of Federal Regulations, that is conducted in accordance with Part 46 of Title 45 of the Code of Federal Regulations and the Federal Policy for the Protection of Human Subjects, also known as the Common Rule;

4. Pursuant to a contract where the lawful holder of the de-identified information expressly engages a person or entity to attempt to re-identify the de-identified information in order to conduct testing, analysis, or validation of de-identification, or related statistical techniques, if the contract bans any other use or disclosure of the re-identified information and requires the

return or destruction of the information that was re-identified upon completion of the contract; and

5. If otherwise required by law.

C. In accordance with paragraphs 2 through 6 of subsection A of this section, information re-identified pursuant to this section shall be subject to applicable federal and state data privacy and security laws, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 and state health privacy laws.

D. Beginning January 1, 2024, any contract for the sale or license of de-identified information that has met the requirements of paragraphs 2 through 6 of subsection A of this section, where one of the parties is a person residing or doing business in the state, shall include the following, or substantially similar, provisions:

1. A statement that the de-identified information being sold or licensed includes de-identified patient information;

2. A statement that re-identification, and attempted re-identification, of the de-identified information by the purchaser or licensee of the information is prohibited pursuant to this section; and

3. A requirement that, unless otherwise required by law, the purchaser or licensee of the de-identified information may not further disclose the de-identified information to any third party

unless the third party is contractually bound by the same or stricter restrictions and conditions.

E. For purposes of this section, "re-identify" means the process of reversal of de-identification techniques, including, but not limited to, the addition of specific pieces of information or data elements that can, individually or in combination, be used to uniquely identify an individual or usage.

F. For purposes of paragraph 10 of subsection A of this section, the collection or sale of a consumer's personal information occurs wholly outside of this state if:

1. The business collects that information while the consumer is outside of this state;

2. No part of the sale of the information occurs in this state;

and

3. The business does not sell any personal information of the consumer collected while the consumer is in this state.

G. For purposes of subsection F of this section, the collection or sale of a consumer's personal information does not occur wholly outside of this state if a business stores a consumer's personal information, including on a device, when the consumer is in this state and subsequently collects or sells that stored information when the consumer and the information are outside of this state.

H. For purposes of this section, all of the following shall apply:

1. "Business associate" has the same meaning as defined in Section 160.103 of Title 45 of the Code of Federal Regulations;

2. "Covered entity" has the same meaning as defined in Section 160.103 of Title 45 of the Code of Federal Regulations;

3. "Identifiable private information" has the same meaning as defined in Section 46.102 of Title 45 of the Code of Federal Regulations;

4. "Individually identifiable health information" has the same meaning as defined in Section 160.103 of Title 45 of the Code of Federal Regulations;

5. "Medical information" means any individually identifiable information, in electronic or physical form, in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, mental or physical condition, or treatment;

6. "Patient information" means identifiable private information, protected health information, individually identifiable health information, or medical information;

7. "Protected health information" has the same meaning as defined in Section 160.103 of Title 45 of the Code of Federal Regulations; and

8. "Provider of health care" means a person or entity that is a covered entity.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.5 of Title 17, unless there is created a duplication in numbering, reads as follows:

A right or obligation under this act does not apply to the extent that the exercise of the right or performance of the obligation infringes on a noncommercial activity of:

1. A publisher, editor, reporter or other person connected with or employed by a newspaper, magazine or other publication of general circulation, including a periodical, newsletter, pamphlet or report;
2. A radio or television station that holds a license issued by the Federal Communications Commission;
3. A nonprofit that provides programming to radio or television networks; or
4. An entity that provides an information service, including a press association or wire service.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.6 of Title 17, unless there is created a duplication in numbering, reads as follows:

This act does not:

1. Restrict a business's ability to:
 - a. comply with:
 - (1) applicable federal, state or local laws, or

- (2) a civil, criminal or regulatory inquiry,
investigation, subpoena or summons by a federal,
state or local authority,
- b. cooperate with a law enforcement agency concerning
conduct or activity that the business, a service
provider of the business or a third party reasonably
and in good faith believes may violate other
applicable federal, state or local laws,
- c. pursue or defend against a legal claim,
- d. detect a security incident; protect against malicious,
deceptive, fraudulent or illegal activity; or
prosecute those responsible for any illegal activity
described by this paragraph, or
- e. assist another party with any of the foregoing; or

2. Require a business to violate an evidentiary privilege under federal or state law or prevent a business from disclosing to a person covered by an evidentiary privilege the personal information of a consumer as part of a privileged communication.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.7 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. This act shall be liberally construed to effect its purposes and to harmonize, to the extent possible, with other laws of this state relating to the privacy or protection of personal information.

B. To the extent of a conflict between a provision of this act and a provision of federal law, including a regulation or an interpretation of federal law, federal law controls and conflicting requirements or other provisions of this act do not apply. Further, should the federal government pass comprehensive data privacy regulations that conflict with the provisions herein, federal law shall prevail.

C. To the extent of a conflict between a provision of this act and another statute of this state with respect to the privacy or protection of consumers' personal information, the provision of law that affords the greatest privacy or protection to consumers prevails.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.8 of Title 17, unless there is created a duplication in numbering, reads as follows:

This act preempts and supersedes any ordinance, order or rule adopted by a political subdivision of this state relating to the collection or sale by a business of a consumer's personal information.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.9 of Title 17, unless there is created a duplication in numbering, reads as follows:

Except as used in Section 4 of this act, for purposes of this act, "research" means scientific, systematic study and observation,

including basic research or applied research that is in the public interest and that adheres to all other applicable ethics and privacy laws or studies conducted in the public interest in the area of public health. Research with personal information that may have been collected from a consumer in the course of the consumer's interactions with a business's service or device for other purposes must:

1. Be compatible with the business purpose for which the personal information was collected;

2. Be subsequently pseudonymized and de-identified, or de-identified and in the aggregate, such that the information cannot reasonably identify, relate to, describe, be capable of being associated with, or be linked, directly or indirectly, to a particular consumer;

3. Be made subject to technical safeguards that prohibit re-identification of the consumer to whom the information may pertain;

4. Be subject to business processes that specifically prohibit re-identification of the information;

5. Be made subject to business processes to prevent inadvertent release of de-identified information;

6. Be protected from any re-identification attempts;

7. Be used solely for research purposes that are compatible with the context in which the personal information was collected;

8. Not be used for any commercial purpose; and

9. Be subjected by the business conducting the research to additional security controls that limit access to the research data to only those individuals in a business as are necessary to carry out the research purpose.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.10 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A consumer is entitled to request that a business that collects the consumer's personal information disclose to the consumer the categories and specific items of personal information the business has collected.

B. To receive the disclosure of information under subsection A of this section, a consumer must submit to the business a verifiable consumer request using a method designated by the business under Section 18 of this act.

C. On receipt of a verifiable consumer request under this section, a business shall disclose to the consumer in the time and manner provided by Section 20 of this act:

1. Each enumerated category and item within each category of personal information under paragraph 14 of Section 2 of this act that the business collected about the consumer during the twelve (12) months preceding the date of the request;

2. Each category of sources from which the information was collected;

3. The business or commercial purpose for collecting or selling the personal information; and

4. Each category of third parties with whom the business shares the personal information.

D. This section does not require a business to:

1. Retain a consumer's personal information that was collected for a one-time transaction if the information is not sold or retained in the ordinary course of business; or

2. Re-identify or otherwise link any data that, in the ordinary course of business, is not maintained in a manner that would be considered personal information.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.11 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A consumer is entitled to request that a business that collects the consumer's personal information delete any personal information the business has collected from the consumer by submitting a verifiable consumer request using a method designated by the business under Section 18 of this act.

B. Except as provided by subsection C of this section, on receipt of a verifiable consumer request under this section, a business shall delete from the business's records any personal information collected from the consumer and direct a service provider of the business to delete the information from the

provider's records in the time provided for in Section 20 of this act.

C. A business or service provider of the business is not required to comply with a verifiable consumer request received under this section if the business or service provider needs to retain the consumer's personal information to:

1. Complete the transaction for which the information was collected;

2. Provide a good or service requested by the consumer in the context of the ongoing business relationship between the business and consumer;

3. Perform under a contract between the business and the consumer;

4. Detect a security incident; protect against malicious, deceptive, fraudulent or illegal activity; or prosecute those responsible for any illegal activity described by this paragraph;

5. Identify and repair or remove errors from computer hardware or software that impair its intended functionality;

6. Exercise free speech or ensure the right of another consumer to exercise the right of free speech or another right afforded by law;

7. Comply with a court order or subpoena or other lawful process; or

8. Engage in public or peer-reviewed scientific, historical or statistical research that is in the public interest and that adheres to all other applicable ethics and privacy laws, provided that:

- a. the business's deletion of the information is likely to render impossible or seriously impair the achievement of that research, and
- b. the consumer has previously provided to the business informed consent to retain the information for such use.

D. Where a business, service provider or third party has made a consumer's personal information public, said business, service provider or third party shall:

1. Take all reasonable steps, including technical measures, to erase the personal information that the business, service provider or third party made public, taking into account available technology and the cost of implementation; and

2. Advise any other business, service provider or third party with whom a contract regarding the consumer exists that the consumer has requested the erasure of any links to, copies of or replication of that personal information.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.12 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A consumer is entitled to request that a business that sells, or discloses for a business purpose, the consumer's personal information disclose to the consumer:

1. The categories of personal information the business collected about the consumer;

2. The categories of personal information about the consumer the business sold, or disclosed for a business purpose; and

3. The categories of third parties to whom the personal information was sold or disclosed.

B. To receive the disclosure of information under subsection A of this section, a consumer must submit to the business a verifiable consumer request using a method designated by the business under Section 18 of this act.

C. On receipt of a verifiable consumer request under this section, a business shall disclose to the consumer in the time and manner provided by Section 20 of this act:

1. Each enumerated category of personal information under paragraph 14 of Section 2 of this act that the business collected about the consumer during the twelve (12) months preceding the date of the request;

2. The categories of third parties to whom the business sold the consumer's personal information during the twelve (12) months preceding the date of the request by reference to each enumerated

category of information under paragraph 14 of Section 2 of this act sold to each third party; and

3. The categories of third parties to whom the business disclosed for a business purpose the consumer's personal information during the twelve (12) months preceding the date of the request by reference to each enumerated category of information under paragraph 14 of Section 2 of this act disclosed to each third party.

D. A business shall provide the information described by paragraphs 2 and 3 of subsection C of this section in two separate lists.

E. A business that did not sell, or disclose for a business purpose, the consumer's personal information during the twelve (12) months preceding the date of receiving the consumer's verifiable consumer request under this section shall disclose that fact to the consumer.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.13 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A consumer is entitled at any time to opt out of the sale of the consumer's personal information by a business to third parties by directing the business not to sell the information. A consumer may authorize another person solely to opt out of the sale of the consumer's personal information on the consumer's behalf. A

business shall comply with a direction not to sell that is received under this subsection.

B. To exercise the right to opt out specified in subsection A of this section, a consumer shall submit to the business a verifiable consumer request using a method designated by the business under Section 18 of this act.

C. A business that sells consumers' personal information to a third party shall provide on the business's Internet website:

1. Notice to consumers that:

- a. the information may be sold,
- b. identifies the categories of persons to whom the information will or could be sold, and
- c. consumers have the right to opt in to the sale via consent; and

2. A clear and conspicuous link that enables a consumer, or person authorized by the consumer, to consent to the sale of the consumer's personal information.

D. A business may not sell to a third party the personal information of a consumer who does not consent to the sale of that information after the effective date of this act or after a consumer submits a verifiable request to opt out of any future sale.

E. A business may use any personal information collected from the consumer in connection with the consumer's opting out under this section solely to comply with this section.

F. A third party to whom a business has sold the personal information of a consumer may not sell the information unless the consumer receives explicit notice of the potential sale and is provided the opportunity to, and in fact does, consent to the sale as provided by this section.

G. A business may not require a consumer to create an account with the business to opt in to the sale of the consumer's personal information.

H. A business or service provider shall implement and maintain reasonable security procedures and practices, including administrative, physical and technical safeguards appropriate to the nature of the information and the purposes for which the personal information will be used, to protect consumers' personal information from unauthorized use, disclosure, access, destruction or modification, irrespective of whether a customer has consented to opt in or out of a sale of data.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.14 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. The Legislature of the State of Oklahoma finds that individuals within Oklahoma have a right to prohibit retention, use or disclosure of their own personal data.

B. The Legislature of the State of Oklahoma further finds that individuals within Oklahoma have previously been exploited for

monetary gain and manipulation by private ventures in utilization of private data.

C. The Legislature of the State of Oklahoma further finds that the protection of individuals within Oklahoma and their data is a core governmental function in order to protect the health, safety and welfare of individuals within Oklahoma.

D. The Legislature of the State of Oklahoma further finds that the terms and conditions set forth in this act are the least restrictive alternative necessary to protect individuals within Oklahoma and their rights and that the use of a strictly "opt-out" method for data privacy is ineffectual and poses an immediate risk to the health, safety and welfare of individuals within Oklahoma.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.15 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A provision of a contract or other agreement that purports to waive or limit a right, remedy or means of enforcement under this act is contrary to public policy and is void.

B. This section does not prevent a consumer from:

1. Declining to request information from a business;
2. Declining to consent to a business's sale of the consumer's personal information; or

3. Authorizing a business to sell the consumer's personal information after previously opting out.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.16 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. After the effective date of this act, a business shall not collect a consumer's personal information directly from the consumer prior to notifying the consumer of each category of personal information to be collected and for what purposes information will be used, as well as obtaining the consumer's consent to opt in to collection, which may be provided electronically by the consumer, to collect a consumer's personal information.

B. A business may not collect an additional category of personal information directly from the consumer or use personal information collected for an additional purpose unless the business provides notice to the consumer of the additional category or purpose in accordance with subsection A of this section.

C. If a third party that assumes control of all or part of a business as described by subparagraph c of paragraph 2 of subsection C of Section 3 of this act materially alters the practices of the business in how personal information is used or shared, and the practices are materially inconsistent with a notice provided to a consumer under subsection A or B of this section, the third party must notify the consumer of the third party's new or changed practices in a conspicuous manner that allows the consumer to easily

exercise a right provided under this act before the third-party collector uses or shares the personal information.

D. Subsection C of this section does not authorize a business to make a material, retroactive change or other change to a business's privacy policy in a manner that would be a deceptive trade practice actionable under Oklahoma law.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.17 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A business that collects, sells or for a business purpose discloses a consumer's personal information shall disclose the following information in the business's online privacy policy or other notice of the business's policies:

1. A description of a consumer's rights under Sections 10, 11, 12, 13 and 16 of this act and designated methods for submitting a verifiable consumer request under this act;

2. For a business that collects personal information about consumers, a description of the consumer's right to request the deletion of the consumer's personal information;

3. Separate lists containing the categories of consumers' personal information described by paragraph 14 of Section 2 of this act that, during the twelve (12) months preceding the date the business updated the information as required by subsection C of this section, the business:

- a. collected,
- b. sold, if applicable, or
- c. disclosed for a business purpose, if applicable;

4. The categories of sources from which the information under paragraph 3 of this subsection is collected;

5. The business or commercial purposes for collecting personal information;

6. If the business does not sell consumers' personal information or disclose the information for a business or commercial purpose, a statement of that fact;

7. The categories of third parties to whom the business sells or discloses personal information;

8. If the business sells consumers' personal information, the Internet link required by subsection C of Section 13 of this act;
and

9. If applicable, the financial incentives offered to consumers under Section 23 of this act.

B. If a business described by subsection A of this section does not have an online privacy policy or other notice of the business's policies, the business shall make the information required under subsection A of this section available to consumers on the business's Internet website or another website the business maintains that is dedicated to consumers in this state.

C. A business must update the information required by subsection A of this section at least once each year.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.18 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A business shall designate and make available to consumers, in a form that is reasonably accessible, at least two methods for submitting a verifiable consumer request for information required to be disclosed or deleted under this act. The methods must include, at a minimum:

1. A toll-free telephone number that a consumer may call to submit the request; and

2. The business's Internet website at which the consumer may submit the request.

B. The methods designated under subsection A of this section may also include:

1. A mailing address;

2. An electronic mail address; or

3. Another Internet webpage or portal.

C. A business may not require a consumer to create an account with the business to submit a verifiable consumer request.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.19 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A business that receives a verifiable consumer request under Section 10, 11, 12 or 13 of this act shall promptly take steps to reasonably verify that:

1. The consumer who is the subject of the request is a consumer about whom the business has collected, sold, or for a business purpose disclosed personal information; and

2. The request is made by:

a. the consumer,

b. a consumer on behalf of the consumer's minor child, or

c. a person authorized to act on the consumer's behalf.

B. A business may use any personal information collected from the consumer in connection with the business's verification of a request under this section solely to verify the request.

C. A business that is unable to verify a consumer request under this section is not required to comply with the request.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.20 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Not later than forty-five (45) days after the date a business receives a verifiable consumer request under Section 10, 11, 12 or 13 of this act, the business shall disclose free of charge to the consumer the information required to be disclosed under those sections or take the requested actions, as applicable.

B. A business may extend the time in which to comply with subsection A of this section once by an additional forty-five (45) days if reasonably necessary or by an additional ninety (90) days after taking into account the number and complexity of verifiable consumer requests received by the business. A business that extends the time in which to comply with subsection A of this section shall notify the consumer of the extension and reason for the delay within the period prescribed by that subsection.

C. The disclosure required by subsection A of this section must:

1. Cover personal information collected, sold or disclosed for a business purpose, as applicable, during the twelve (12) months preceding the date the business receives the request; and

2. Be made in writing and delivered to the consumer:

a. by mail or electronically, at the consumer's option, if the consumer does not have an account with the business, or

b. through the consumer's account with the business.

D. An electronic disclosure under subsection C of this section must be in a readily accessible format that allows the consumer to electronically transmit the information to another person or entity.

E. A business is not required to make the disclosure required by subsection A of this section to the same consumer more than once in a twelve-month period.

F. Notwithstanding subsection A of this section, if a consumer's verifiable consumer request is manifestly baseless or excessive, in particular because of repetitiveness, a business may charge a reasonable fee after taking into account the administrative costs of compliance or refusal to comply with the request. The business has the burden of demonstrating that a request is manifestly baseless or excessive.

G. A business that does not comply with a consumer's verifiable consumer request under subsection A of this section shall notify the consumer, within the time the business is required to respond to a request under this section, of the reasons for the refusal and the rights the consumer may have to appeal that decision.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.21 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A business that uses de-identified information may not re-identify or attempt to re-identify a consumer who is the subject of de-identified information without obtaining the consumer's consent or authorization.

B. A business that uses de-identified information shall implement:

1. Technical safeguards and business processes to prohibit re-identification of the consumer to whom the information may pertain; and

2. Business processes to prevent inadvertent release of de-identified information.

C. This act may not be construed to require a business to re-identify or otherwise link information that is not maintained in a manner that would be considered personal information.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.22 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A business may not discriminate against a consumer because the consumer exercised a right under this act, including by:

1. Denying a good or service to the consumer;
2. Charging the consumer a different price or rate for a good or service, including denying the use of a discount or other benefit or imposing a penalty;
3. Providing a different level or quality of a good or service to the consumer; or
4. Suggesting that the consumer will be charged a different price or rate for, or provided a different level or quality of, a good or service.

B. This section does not prohibit a business from offering or charging a consumer a different price or rate for a good or service, or offering or providing to the consumer a different level or quality of a good or service, if the difference is reasonably

related to the value provided to the consumer by the consumer's data.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.23 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. Subject to subsection B of this section, a business may offer a financial incentive to a consumer, including a payment as compensation, for the collection, sale or disclosure of the consumer's personal information.

B. A business may enroll a customer in a financial incentive program only if the business provides to the consumer a clear description of the material terms of the program and obtains the consumer's prior opt-in consent, which:

1. Contains a clear description of those material terms; and
2. May be revoked by the consumer at any time.

C. A business may not use financial incentive practices that are unjust, unreasonable, coercive or usurious in nature.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.24 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A business may not divide a single transaction into more than one transaction with the intent to avoid the requirements of this act.

B. For purposes of this act, two or more substantially similar or related transactions are considered a single transaction if the transactions:

1. Are entered into contemporaneously; and
2. Have at least one common party.

C. A court shall disregard any intermediate transactions conducted by a business with the intent to avoid the requirements of this act, including the disclosure of information by a business to a third party to avoid complying with the requirements under this act applicable to a sale of the information.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.25 of Title 17, unless there is created a duplication in numbering, reads as follows:

A business shall ensure that each person responsible for handling consumer inquiries about the business's privacy practices or compliance with this act is informed of the requirements of this act and of how to direct a consumer in exercising any of the rights to which a consumer is entitled under this act.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.26 of Title 17, unless there is created a duplication in numbering, reads as follows:

A. A person who violates this act is liable to this state for injunctive relief and/or a civil penalty in an amount not to exceed:

1. Two Thousand Five Hundred Dollars (\$2,500.00) for each violation; or

2. Seven Thousand Five Hundred Dollars (\$7,500.00) for each violation, if the violation is intentional.

B. The Oklahoma Attorney General is entitled to recover reasonable expenses, including reasonable attorney fees, court costs and investigatory costs, incurred in obtaining injunctive relief or civil penalties, or both, under this section. Amounts collected under this section shall be deposited in a dedicated account in the General Revenue Fund and shall be appropriated only for the purposes of the administration and enforcement of this act.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.27 of Title 17, unless there is created a duplication in numbering, reads as follows:

A business that discloses to a third party, or discloses for a business purpose to a service provider, a consumer's personal information in compliance with this act may not be held liable for a violation of this act by the third party or service provider if the business does not have actual knowledge or a reasonable belief that the third party or service provider intends to violate this act.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.28 of Title 17, unless there is created a duplication in numbering, reads as follows:

A business's service provider may not be held liable for a violation of this act by the business.

SECTION 29. This act shall become effective January 1, 2024.

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