

STATE OF NEW YORK

4600

2025-2026 Regular Sessions

IN SENATE

February 10, 2025

Introduced by Sens. GOUNARDES, ADDABBO, BROUK, COMRIE, FERNANDEZ, GIANARIS, HINCHEY, HOYLMAN-SIGAL, KRUEGER, MAYER, MYRIE, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Internet and Technology

AN ACT to amend the general business law, in relation to enacting the New York child data privacy and protection act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "New York
2 child data privacy and protection act".
3 § 2. Legislative intent. The legislature hereby finds that 95% of
4 individuals under the age of 18 in the United States enjoy access to the
5 Internet in their residences.
6 The legislature further finds that American teenagers spend seven
7 hours and 22 minutes on average per day browsing social media, and that
8 53% of children will own a smartphone by the time they're 11 years of
9 age.
10 The legislature recognizes that, while broadband access is a core
11 component of modern life and critical to the ability of children and
12 young people to feel socially, emotionally, economically, and educa-
13 tionally connected to the world around them, it is not without its risks
14 and detriments.
15 The legislature finds, for example, that teenagers who spend between
16 five to seven hours a day on the Internet are twice as likely to suffer
17 from depression compared to those logged in for one hour a day.
18 The legislature further finds that, according to recent surveys
19 conducted by a prominent social media platform, 34% of young adults feel
20 uneasy when they are not online, 40.6% complain that their sleep habits
21 have been negatively affected by social media, and 35% report being
22 cyberbullied on the Internet.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD05607-02-5

1 The legislature further finds that, according to the 2021 U.S.
2 Surgeon General Advisory on Protecting Youth Mental Health, digital
3 public spaces are frequently designed to maximize user engagement as
4 opposed to safeguarding user health, leading to negative impacts of
5 digital technologies and social media on the mental health and well-be-
6 ing of adolescents.

7 The legislature further finds that the pitfalls of the Internet are
8 not limited to teenagers, with young children potentially exposed to
9 unsettling, dangerous, or age inappropriate content if not closely moni-
10 tored by an adult.

11 The legislature further finds that young children run a higher risk of
12 coming into contact with strangers online, inadvertently sharing
13 personal information online, inadvertently making in-app purchases or
14 signing contracts, terms, or conditions online, becoming subject to,
15 witnessing, or participating in potentially harmful conduct online, or
16 purchasing drugs and other dangerous products advertised online or sold
17 through online platforms.

18 The legislature recognizes the role of lawmakers to guard against and
19 mitigate these risks for children under the age of 18 wherever possible.

20 The legislature finds that, while Congress passed the landmark Chil-
21 dren's Online Privacy Protection Act (COPPA) in 1998 limiting the
22 collection, use, and disclosure of data collected from children under 13
23 years of age, requiring operators to retain such data for a limited
24 amount of time, and restricting certain marketing to children under 13
25 years of age, multiple studies have found the vast majority of applica-
26 tion developers to be out of compliance with these rules.

27 The legislature further finds that recent studies show at least two-
28 thirds of applications transmit data about very young children to third
29 party marketing companies.

30 The legislature further finds that President Biden recently declared
31 the need to "strengthen privacy protections, ban targeted advertising to
32 children, [and] demand tech companies stop collecting personal data on
33 our children" in his 2022 State of the Union Address.

34 The legislature further finds that, subsequent to this address, the
35 Federal Trade Commission announced that it will prioritize the enforce-
36 ment and modernization of COPPA to "crack down on companies that ille-
37 gally surveil children online".

38 The legislature further finds that there has been a flurry of recent
39 legislative activity at the state, federal, and international levels to
40 address this issue, including the California Age-Appropriate Design Code
41 Act, the Virginia's Consumer Data Protection Act, the Colorado Privacy
42 Act, the Connecticut Data Privacy Act, the Utah Consumer Privacy Act,
43 several federal proposals to strengthen and improve COPPA, and the UK's
44 Age Appropriate Design Code.

45 The legislature hereby concludes that the state of New York too has a
46 role to play in better preventing the exploitation of children's data in
47 the modern era, and thus presents the New York Child Data Privacy and
48 Protection Act.

49 § 3. The article heading of article 39-F of the general business law,
50 as amended by chapter 117 of the laws of 2019, is amended to read as
51 follows:

52 NOTIFICATION OF UNAUTHORIZED ACQUISITION OF PRIVATE
53 INFORMATION; DATA SECURITY PROTECTIONS; CHILD DATA PRIVACY AND
54 PROTECTION ACT

55 § 4. The general business law is amended by adding a new section 899-
56 cc to read as follows:

1 § 899-cc. New York child data privacy and protection act. 1. Defi-
2 initions.

3 (a) "Bureau" shall mean the bureau of internet and technology in the
4 office of the New York attorney general.

5 (b) "Child" or "children" shall mean a consumer or consumers under
6 eighteen years of age.

7 (c) "Child user" shall mean a child accessing an online product with a
8 device.

9 (d) "Data breach" shall mean a breach of security leading to the acci-
10 dental or unlawful destruction, loss, alteration, unauthorized disclo-
11 sure of, or access to, personal data of child users transmitted, stored,
12 or otherwise processed.

13 (e) "Data controller" or "controller" shall mean a natural or legal
14 person which, alone or jointly with others, determines the purposes and
15 means of processing of the personal data of child users. This includes,
16 but is not limited to, any business, website, or platform that collects
17 data while selling electronic advertising space on its platform tailed
18 to any one or any aggregation of the items of personal data defined in
19 this section. No data controller is exempt from the requirements of this
20 article if they are processing pseudonymized data, whereby "pseudonym-
21 ized" or "pseudonymization" means the processing of personal data in a
22 manner that renders the personal data no longer attributable to a
23 specific child user without the use of additional information, provided
24 that the additional information is kept separately and is subject to
25 technical and organizational measures to ensure that the personal data
26 is not attributed to an identified or identifiable child user.

27 (f) "Data protection impact assessment" shall mean an internal evalu-
28 ation which the bureau requires entities to carry out in order to evalu-
29 ate the level of risk associated with such entity's collection,
30 retention, processing, or sale of child user data.

31 (g) "Online product" shall mean an online service, feature, or plat-
32 form that is accessible to users with a digital device.

33 (h) "Personal data" or "personal data identifier" shall mean any
34 computerized information about a child user set forth in this paragraph
35 that is not made publicly available through federal, state or local
36 government agencies or any publicly available information, regardless of
37 whether it is collected for the purpose of selling or transferring it to
38 another entity. Personal data shall mean information that identifies,
39 relates to, describes, or is reasonably linked to a particular child
40 user, including but not limited to:

41 (i) physical address;

42 (ii) legal name;

43 (iii) alias;

44 (iv) unique personal identifier;

45 (v) online identifier;

46 (vi) internet protocol address;

47 (vii) e-mail address;

48 (viii) account name;

49 (ix) social security number;

50 (x) place of birth;

51 (xi) date of birth;

52 (xii) phone number;

53 (xiii) audio, visual, thermal, or olfactory data;

54 (xiv) medical history, records of past medical treatment, or any diag-
55 nosis of a physical or mental health condition or disability;

1 (xv) educational information that is not already publicly available
2 through a local, state, or federal agency;

3 (xvi) real time geolocation data or stored geolocation history;

4 (xvii) any unique biometric data, body measurement, technical analy-
5 sis, or measurements collected for the purpose of allowing a child user
6 to authenticate themselves on a device, internet application, or web-based
7 platform;

8 (xviii) names and identifying information of a child user's immediate
9 family;

10 (xix) internet or any other electronic network activity, including
11 browsing history, search history, and information regarding a child
12 user's activity on a website or interaction with an electronic adver-
13 tisement;

14 (xx) any other information that alone, or combined with any of the
15 information described in this paragraph, could be reasonably used to
16 identify an individual child user; and

17 (xxi) any inferences drawn from any of the combined forms of personal
18 data that are used to create a profile of the child user reflecting the
19 child's preferences, choices, characteristics, psychological trends,
20 intelligence, aptitude, and emotional or physical health or behavior.

21 "Personal data" shall also include any information which creates prob-
22 abilistic identifiers that can be used to isolate, individualize, or
23 identify a child user or device to a degree of certainty more probable
24 than not based on any item of personal data defined in this paragraph.

25 (i) "Privacy by default" shall mean that the online product, once
26 released to the public, is predesigned so that the strictest online
27 privacy settings shall apply without any manual input required from the
28 user. In addition, "privacy by default" shall mean that the online prod-
29 uct shall only retain personal data provided by a child user for the
30 duration of time necessary to provide such product to such user.

31 (j) "Process", "processing" or "processor" shall refer to an operation
32 or set of operations performed on personal data or sets of personal
33 data, whether or not by automated means, on behalf of a data controller.

34 (k) "Sale" or "sold" shall mean the disclosure, dissemination, making
35 available, release, transfer, conveyance, license, rental, or other
36 commercialization of child user data by a data controller to another
37 party, whether commercialization occurs via access to raw data or via
38 use of platform interface. This definition shall include dissemination
39 of child user data, orally, in writing, or by electronic or other means,
40 for monetary or other valuable consideration, or otherwise for a commer-
41 cial purpose, by a data controller to another party.

42 (l) "Targeted digital advertising" shall mean an effort to market an
43 online product that is directed at a specific child user or device based
44 on: the personal data of such child user, a group of child users who
45 share personal data identifiers as such term is defined in paragraph (h)
46 of this subdivision, psychological profiling, or a unique identifier of
47 the device; or as a result of such child user or group of child user's
48 use of such online product or any other online product.

49 (m) "Targeted towards child users" shall mean that the online product
50 should know that its product is accessible to and used by children. The
51 bureau may consider such factors as the online product's internal
52 research about such product's users, existing evidence of user behavior,
53 whether advertisements featured on the online product, including third-
54 party advertisements, are likely to appeal to children, the content of
55 complaints received, as detailed in subparagraph (xiv) of paragraph (a)
56 of subdivision two of this section, about the product from parents,

1 children, or other individuals that indicate the age of users accessing
2 the online product, content and design features of the product such as
3 animation, musical, or audio content, the presence of children or influ-
4 encers popular with children, how the online product describes and
5 promotes itself, and any other characteristic the bureau deems relevant
6 when determining how an online product should know that it is accessible
7 to and used by children.

8 2. Data protection impact assessments. (a) Each entity offering an
9 online product that is targeted towards child users in this state shall
10 complete a data protection impact assessment. The data protection impact
11 assessment shall include an analysis of the following:

12 (i) The ways in which child users primarily interact with or consume
13 the online product;

14 (ii) The amount of time, on average, that a child user spends using
15 the online product and whether the product includes any features that
16 are designed to extend or increase such amount of time;

17 (iii) The amount and type of data of child users collected, retained,
18 processed, and/or sold;

19 (iv) The purpose of the collection, retention, processing, or sale of
20 such data;

21 (v) If the entity is a data controller, the data sharing relationships
22 the entity has with data processors or other third parties with whom it
23 shares the personal data of child users, including any data addendums or
24 other legal policies put into place between the entity and the party
25 receiving the data;

26 (vi) Data security protections of the online product which work to
27 prevent and respond to data breaches, as defined in subdivision one of
28 this section;

29 (vii) Any privacy policies, terms of service, or other legal policies
30 published on the online product which relate to child users and whether
31 they are written in a way that can reasonably be understood by a child
32 user;

33 (viii) Whether such policies or terms of service require approval of
34 the parent or legal guardian of the child user;

35 (ix) Community standards for published content on the online product,
36 and whether and how the product removes content which violates such
37 standards;

38 (x) Whether such online product exposes children to potentially harm-
39 ful content;

40 (xi) Whether the use of such online product could lead to children
41 being targeted by a potentially harmful contact;

42 (xii) Whether the online product could allow child users to witness,
43 participate in, or be subject to potentially harmful conduct;

44 (xiii) Whether the online product shares information on the child
45 user's activity on such product with such child's legal parent or guard-
46 ian;

47 (xiv) Opportunities for individuals developing an online product
48 targeted towards child users to voice concerns about such product
49 before, during, and after development without fear of retaliation
50 against such individual;

51 (xv) Ways in which an entity offering an online product targeted
52 towards child users solicits feedback from children, parents, educators,
53 health professionals, youth development professionals, and the general
54 public on the online product;

55 (xvi) Whether and how child users can limit exposure to certain types
56 of content;

1 (xvii) The impact of the online product on a child user's behavioral,
2 emotional, and physical health; and

3 (xviii) Any other factors the bureau deems relevant to assess the
4 material risk of the online product posed to child users.

5 (b) Each entity completing such data protection impact assessment
6 shall furnish such assessment to the bureau of internet and technology
7 within five days of receiving a request from the bureau for such assess-
8 ment. Any potential risks posed by the online product, including risks
9 of noncompliance with any provision of this section or any other law,
10 which are identified by the bureau shall be communicated by the bureau
11 back to the entity, which shall then create a plan to mitigate or elimi-
12 nate such risk.

13 (c) The bureau shall provide technical, operational, and legal assist-
14 ance to entities completing a data protection impact assessment upon the
15 request of the entity. The bureau shall post guidelines for how to
16 complete a data protection impact assessment, including best practices
17 for how to describe data processing, how to ensure data quality and
18 minimization, how to provide privacy information to child users, how to
19 identify and assess risks to child users, how to identify measures to
20 mitigate such risks, and any other practices the bureau deems relevant
21 in its guidance. The bureau shall post such guidelines, along with a
22 model data protection impact assessment template, on a publicly accessi-
23 ble website.

24 3. Ban on digital advertising. No entity offering an online product
25 targeted towards child users in this state shall use targeted digital
26 advertising unless consent for such advertising is obtained from the
27 child's parent or legal guardian and the entity can demonstrate to the
28 bureau that it has a compelling reason to offer such advertising which
29 furtheres the interest of the child.

30 4. Requirement for certain settings. (a) All entities offering an
31 online product targeted towards child users in this state shall utilize
32 privacy by default, unless the entity can demonstrate a compelling
33 reason to the bureau that an alternative default setting should be used.

34 (b) All entities offering an online product targeted towards child
35 users must design and activate a feature which proactively alerts child
36 users, in a manner likely to be understood by a child in the age range
37 targeted by the online product, when their personal data is being
38 collected and for the duration of time such collection occurs.

39 5. Deceased child users. All entities offering an online product
40 targeted towards child users in this state shall provide access to such
41 user's account, metadata, and user history to a parent or legal guardian
42 upon the death of such child user and request from such parent or guard-
43 ian for such access.

44 6. Law enforcement. All entities offering an online product targeted
45 towards child users in this state shall expedite and prioritize civil
46 and criminal subpoenas and criminal warrants pertaining to child users
47 who have been a victim of a crime with maximum exigence.

48 7. Terms of service. (a) Any entity offering an online product target-
49 ed towards child users in this state shall prominently display a privacy
50 policy and terms of service, to include warnings about potential harms
51 to child users, in a manner which clearly and concisely communicates to
52 a child user, using language likely to be understood by an individual in
53 the age range targeted by such product.

54 (b) All privacy policies and terms of service of an online product
55 targeted towards child users in this state must be agreed to by both the

1 child user and the parent or legal guardian of such child before such
2 product can become operational for the child user.

3 (c) Any entity offering an online product targeted towards child users
4 in this state shall clearly post that the terms of service do not impose
5 binding obligations on the child user to the entity.

6 8. Notification of emergent problems. Any entity offering an online
7 product targeted toward child users in this state shall create and prom-
8 inently display a method for children, parents, and legal guardians to
9 notify such entity of emergent problems with such product. Such method
10 of notification shall not require the parent, guardian, or child user to
11 have an account on such product in order to notify the entity. All elec-
12 tronic notifications of emergent problems described in this subdivision
13 shall be assigned an identification number and contemporaneously gener-
14 ate an electronic receipt for the notifying individual.

15 9. Public awareness campaign. Before the effective date of this
16 section and on a regular, ongoing basis, the bureau shall execute a
17 public awareness campaign to inform entities that create digital
18 products targeted towards child users, parents, teachers, and the gener-
19 al public of the provisions of this section in order to ensure maximum
20 compliance thereof. Such campaign may include digital content, bill-
21 boards, posters, pamphlets, targeted mailers, public service announce-
22 ments, partnerships with local school districts, or any other method to
23 increase general awareness of the provisions of this section.

24 10. Annual report. The bureau of internet and technology shall produce
25 and transmit a biennial report to the temporary president of the senate,
26 the speaker of the assembly, and the governor summarizing:

27 (a) the number of entities completing data protection impact assess-
28 ments and the results thereof;

29 (b) the amount and type of child user data being collected, retained,
30 processed, and/or sold by such entities and the purpose thereof;

31 (c) the volume and nature of material risks posed to child users by
32 such online products and measures taken to mitigate or eliminate such
33 risk;

34 (d) the volume of notifications of emergent problems and a categorical
35 description of each type of problem (i.e. material that led to child
36 sexual abuse or grooming, instances of suicide or drug overdose related
37 to use of online products by child users, instances of bullying facili-
38 tated by online products);

39 (e) a description of the policies and terms of service being presented
40 to child users and their parents or legal guardians as well as accept-
41 ance and denial rates of such policies and terms;

42 (f) the number of individuals or businesses found to be in noncompli-
43 ance with this act pursuant to subdivision eleven of this section;

44 (g) the number of individuals or businesses that have cured violations
45 of this section of their own accord after being issued notice of such
46 violation by the bureau;

47 (h) the number of actions brought against individuals or businesses
48 pursuant to paragraph (a) of subdivision eleven of this section and the
49 results of such actions;

50 (i) a summary of the public education efforts undertaken by the bureau
51 on an ongoing basis to alert the public and interested stakeholders of
52 the provisions of this section, pursuant to subdivision nine of this
53 section; and

54 (j) legislative recommendations for improvements to this or any other
55 statute governing digital actors in this state.

1 11. Penalties. (a) Whenever the attorney general shall believe upon
2 satisfactory evidence that there is a violation of this section, such
3 attorney general may bring an action in the name and on behalf of the
4 people of the state of New York, in a court of justice having jurisdic-
5 tion to issue an injunction, to enjoin and restrain the continuation of
6 such violation. Wherever the court shall determine in such action that a
7 person or business violated this article knowingly or recklessly, the
8 court may impose a civil penalty of up to twenty thousand dollars per
9 instance of violation, provided that the latter amount shall not exceed
10 two hundred fifty million dollars.

11 (b) The attorney general shall provide written notice to all people or
12 businesses of alleged violations at least ninety days before initiating
13 any action described in paragraph (a) of this subdivision. The person or
14 business shall then have an opportunity to cure any alleged violation of
15 this section within such ninety days. If such alleged violation has been
16 cured, the person or business shall send written notice to the attorney
17 general who shall then retain discretion as to whether or not to pursue
18 an action against such person or business.

19 (c) The proceeds from penalties collected from violations of this
20 section, pursuant to paragraph (a) of this subdivision, shall be
21 disbursed as follows: (i) twenty percent of such proceeds shall be
22 dedicated to the public awareness campaign described in subdivision nine
23 of this section; and (ii) the remaining eighty percent of such proceeds
24 shall be dedicated to the enforcement of this section by the bureau.

25 (d) An action may be brought against any person or business who has
26 knowingly or recklessly violated this article if such action is brought
27 on behalf of a child user or by next of kin of a deceased child user
28 alleging harm from such violation. A plaintiff who prevails on a claim
29 alleging a violation of this section is entitled to compensatory, actu-
30 al, and punitive damages, injunctive relief, reasonable attorneys' fees
31 and costs, and other such remedies as a court may deem appropriate.

32 § 5. This act shall take effect on the one hundred eightieth day after
33 it shall have become a law and shall apply to all online products
34 targeted towards child users in this state which are made available to
35 the public on or after such effective date. Effective immediately, the
36 addition, amendment and/or repeal of any rules or regulations necessary
37 for the implementation of this act on its effective date are authorized
38 to be made on or before such effective date.