

REFERENCE TITLE: **personal data; processing; security standards**

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HB 2865

Introduced by
Representatives DeGrazia: Powers Hannley

AN ACT

AMENDING TITLE 18, CHAPTER 5, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 5; RELATING TO PERSONAL DATA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 18, chapter 5, Arizona Revised Statutes, is
3 amended by adding article 5, to read:

4 ARTICLE 5. DATA AND SECURITY STANDARDS

5 18-571. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "COLLECT" MEANS RECEIVING AND TAKING, INCLUDING BY AUTOMATED
8 MEANS, ANY OPERATION OR SET OF OPERATIONS TO OBTAIN PERSONAL DATA,
9 INCLUDING PURCHASING, LEASING, ASSEMBLING, RECORDING, GATHERING, ACQUIRING
10 OR PROCURING PERSONAL DATA.

11 2. "CONSENT" MEANS A CLEAR, AFFIRMATIVE ACT SIGNIFYING A SPECIFIC,
12 INFORMED AND UNAMBIGUOUS INDICATION OF A CONSUMER'S AGREEMENT TO COLLECT
13 OR PROCESS THE CONSUMER'S PERSONAL DATA, SUCH AS BY A WRITTEN STATEMENT OR
14 OTHER CLEAR AFFIRMATIVE ACTION.

15 3. "CONSUMER":

16 (a) MEANS A NATURAL PERSON WHO IS A RESIDENT OF THIS STATE AND WHO
17 IS ACTING ONLY IN AN INDIVIDUAL, NONCOMMERCIAL OR HOUSEHOLD CONTEXT.

18 (b) DOES NOT INCLUDE A NATURAL PERSON WHO IS ACTING IN A COMMERCIAL
19 OR EMPLOYMENT CONTEXT.

20 4. "CONTROLLER" MEANS THE NATURAL OR LEGAL PERSON THAT, ALONE OR
21 JOINTLY WITH OTHERS, DETERMINES THE PURPOSES AND MEANS OF PROCESSING
22 PERSONAL DATA.

23 5. "DATA BROKER" MEANS A BUSINESS, OR A UNIT OR UNITS OF A
24 BUSINESS, SEPARATELY OR TOGETHER, THAT KNOWINGLY COLLECTS AND SELLS OR
25 LICENSES TO THIRD PARTIES THE PERSONAL INFORMATION OF A CONSUMER WITH WHOM
26 THE BUSINESS DOES NOT HAVE A DIRECT RELATIONSHIP.

27 6. "DEIDENTIFIED DATA" MEANS:

28 (a) DATA THAT CANNOT BE LINKED TO A KNOWN NATURAL PERSON WITHOUT
29 ADDITIONAL INFORMATION KEPT SEPARATELY.

30 (b) DATA THAT MEETS ALL OF THE FOLLOWING:

31 (i) HAS BEEN MODIFIED TO A DEGREE THAT THE RISK OF REIDENTIFICATION
32 IS SMALL.

33 (ii) IS SUBJECT TO A PUBLIC COMMITMENT BY THE CONTROLLER NOT TO
34 ATTEMPT TO REIDENTIFY THE DATA.

35 (iii) TO WHICH ONE OR MORE ENFORCEABLE CONTROLS HAVE BEEN APPLIED
36 TO PREVENT REIDENTIFICATION. FOR THE PURPOSES OF THIS ITEM, "ENFORCEABLE
37 CONTROLS" INCLUDES LEGAL, ADMINISTRATIVE, TECHNICAL OR CONTRACTUAL
38 CONTROLS.

39 7. "DISCLOSE" MEANS TAKING ANY ACTION, WITH RESPECT TO PERSONAL
40 DATA, INCLUDING BY AUTOMATED MEANS, TO SELL, SHARE, PROVIDE OR OTHERWISE
41 TRANSFER PERSONAL DATA TO ANOTHER ENTITY OR PERSON OR THE GENERAL PUBLIC.

42 8. "IDENTIFIED OR IDENTIFIABLE NATURAL PERSON" MEANS A PERSON WHO
43 CAN BE READILY IDENTIFIED, DIRECTLY OR INDIRECTLY.

- 1 9. "PERSONAL DATA" OR "PERSONAL INFORMATION":
2 (a) MEANS ANY INFORMATION THAT IS OR CAN REASONABLY BE LINKED TO AN
3 IDENTIFIED OR IDENTIFIABLE NATURAL PERSON.
4 (b) INCLUDES SENSITIVE DATA.
5 (c) DOES NOT INCLUDE DEIDENTIFIED DATA OR PUBLICLY AVAILABLE
6 INFORMATION.
7 10. "PROCESS" OR "PROCESSING" MEANS COLLECTING, USING, STORING,
8 DISCLOSING, ANALYZING, DELETING OR MODIFYING PERSONAL DATA, INCLUDING BY
9 AUTOMATED MEANS.
10 11. "PROCESSOR" MEANS A NATURAL OR LEGAL PERSON THAT PROCESSES
11 PERSONAL DATA ON BEHALF OF THE CONTROLLER.
12 12. "PROFILING" MEANS ANY FORM OF AUTOMATED PROCESSING OF PERSONAL
13 DATA CONSISTING OF USING PERSONAL DATA TO EVALUATE CERTAIN PERSONAL
14 ASPECTS ABOUT A NATURAL PERSON, PARTICULARLY ANALYZING OR PREDICTING
15 ASPECTS OF THAT NATURAL PERSON'S ECONOMIC SITUATION, HEALTH, PERSONAL
16 PREFERENCES, INTERESTS, RELIABILITY, BEHAVIOR, LOCATION OR MOVEMENTS.
17 13. "RESTRICTION OF PROCESSING" MEANS MARKING STORED PERSONAL DATA
18 WITH THE AIM OF LIMITING THE PROCESSING OF SUCH PERSONAL DATA IN THE
19 FUTURE.
20 14. "SALE":
21 (a) MEANS THE EXCHANGE OF PERSONAL DATA FOR MONETARY CONSIDERATION
22 BY THE CONTROLLER TO A THIRD PARTY, INCLUDING FOR THE PURPOSES OF
23 LICENSING OR SELLING PERSONAL DATA AT THE THIRD PARTY'S DISCRETION TO
24 ADDITIONAL THIRD PARTIES.
25 (b) DOES NOT INCLUDE DISCLOSING PERSONAL DATA TO EITHER OF THE
26 FOLLOWING:
27 (i) A PROCESSOR THAT PROCESSES THE PERSONAL DATA ON BEHALF OF THE
28 CONTROLLER.
29 (ii) A THIRD PARTY WITH WHOM THE CONSUMER HAS A DIRECT RELATIONSHIP
30 FOR PURPOSES OF PROVIDING A PRODUCT OR SERVICE REQUESTED BY THE CONSUMER
31 OR OTHERWISE IN A MANNER THAT IS CONSISTENT WITH THE CONSUMER'S REASONABLE
32 EXPECTATIONS CONSIDERING THE CONTEXT IN WHICH THE CONSUMER PROVIDED THE
33 PERSONAL DATA TO THE CONTROLLER.
34 15. "SENSITIVE DATA" MEANS:
35 (a) PERSONAL DATA THAT REVEALS A NATURAL PERSON'S RACIAL OR ETHNIC
36 ORIGINS, RELIGIOUS BELIEFS, MENTAL, PHYSICAL, BEHAVIORAL OR PSYCHOLOGICAL
37 HEALTH CONDITIONS OR DIAGNOSES OR SEX LIFE OR SEXUAL ORIENTATION.
38 (b) GENETIC OR BIOMETRIC DATA THAT IS PROCESSED TO UNIQUELY
39 IDENTIFY A NATURAL PERSON.
40 (c) THE PRECISE GEOLOCATION INFORMATION OF A DEVICE ASSOCIATED WITH
41 A NATURAL PERSON.
42 (d) THE PERSONAL DATA OF A KNOWN CHILD.
43 16. "TARGETED ADVERTISING":
44 (a) MEANS DISPLAYING TO A CONSUMER ADVERTISEMENTS THAT ARE SELECTED
45 BASED ON PERSONAL DATA OBTAINED OR INFERRED OVER TIME FROM THE CONSUMER'S

1 ACTIVITIES ACROSS NONAFFILIATED WEBSITES, APPLICATIONS OR ONLINE SERVICES
2 TO PREDICT USER PREFERENCES OR INTERESTS.

3 (b) DOES NOT INCLUDE ADVERTISING TO A CONSUMER BASED ON THE
4 CONSUMER'S VISITS TO A WEBSITE, APPLICATION OR ONLINE SERVICE THAT A
5 REASONABLE CONSUMER WOULD BELIEVE TO BE ASSOCIATED WITH THE PUBLISHER IN
6 WHICH THE ADVERTISING IS PLACED BASED ON COMMON BRANDING, TRADEMARKS OR
7 OTHER INDICIA OF COMMON OWNERSHIP OR IN RESPONSE TO THE CONSUMER'S REQUEST
8 FOR INFORMATION OR FEEDBACK.

9 17. "VERIFIED REQUEST" MEANS THE PROCESS THROUGH WHICH A CONSUMER
10 MAY SUBMIT A REQUEST TO EXERCISE A RIGHT OR RIGHTS SET FORTH IN THIS
11 ARTICLE AND BY WHICH A CONTROLLER CAN REASONABLY AUTHENTICATE THE REQUEST
12 AND THE CONSUMER MAKING THE REQUEST USING COMMERCIALY REASONABLE MEANS.

13 18-572. Consumer rights; access to personal data; verified
14 requests; controller's duty

15 A. A CONTROLLER SHALL FACILITATE VERIFIED REQUESTS FROM CONSUMERS
16 TO EXERCISE CONSUMER RIGHTS AS FOLLOWS:

17 1. ON RECEIPT OF A VERIFIED REQUEST FROM A CONSUMER, A CONTROLLER
18 SHALL NOTIFY THE CONSUMER WHETHER PERSONAL DATA CONCERNING THE CONSUMER IS
19 BEING PROCESSED, HELD OR SOLD TO DATA BROKERS. IF PERSONAL DATA IS BEING
20 SOLD TO DATA BROKERS, THE CONTROLLER SHALL NOTIFY THE CONSUMER OF THE TYPE
21 AND CATEGORY OF PERSONAL DATA THAT HAS BEEN SOLD AND TO WHOM THE PERSONAL
22 DATA HAS BEEN SOLD.

23 2. ON RECEIPT OF A VERIFIED REQUEST FOR DISCLOSURE FROM A CONSUMER,
24 IF PERSONAL DATA CONCERNING THE CONSUMER IS BEING PROCESSED OR HELD BY THE
25 CONTROLLER, THE CONTROLLER SHALL PROVIDE A COPY OF THE PERSONAL DATA THAT
26 THE CONTROLLER PROCESSES OR MAINTAINS OR PROVIDE THE CATEGORY OR TYPE OF
27 PERSONAL INFORMATION THAT IS KEPT IF A COPY IS UNAVAILABLE OR
28 UNATTAINABLE. IF THE CONSUMER MAKES THE REQUEST BY ELECTRONIC MEANS, AND
29 UNLESS REQUESTED BY THE CONSUMER, THE INFORMATION MUST BE PROVIDED IN A
30 COMMONLY USED ELECTRONIC FORM. FOR ANY ADDITIONAL COPIES REQUESTED BY THE
31 CONSUMER, THE CONTROLLER MAY CHARGE A REASONABLE FEE BASED ON
32 ADMINISTRATIVE COSTS.

33 3. A CONTROLLER THAT COLLECTS A CONSUMER'S PERSONAL DATA, AT OR
34 BEFORE THE POINT OF COLLECTION, SHALL INFORM THE CONSUMER OF THE
35 CATEGORIES OF PERSONAL DATA TO BE COLLECTED AND THE PURPOSES FOR WHICH THE
36 CATEGORIES OF PERSONAL DATA WILL BE USED. A CONTROLLER MAY NOT COLLECT
37 ADDITIONAL CATEGORIES OF PERSONAL DATA OR USE PERSONAL DATA COLLECTED FOR
38 ADDITIONAL PURPOSES WITHOUT PROVIDING THE CONSUMER WITH NOTICE CONSISTENT
39 WITH THIS SECTION.

40 4. A CONTROLLER SHALL PROVIDE THE INFORMATION SPECIFIED IN THIS
41 SUBSECTION TO A CONSUMER ONLY ON RECEIPT OF A VERIFIED REQUEST.

42 B. THIS SECTION DOES NOT REQUIRE A CONTROLLER TO:

43 1. RETAIN ANY PERSONAL DATA COLLECTED FOR A SINGLE, ONETIME
44 TRANSACTION IF THE CONTROLLER DOES NOT SELL OR RETAIN THE INFORMATION.

1 2. REIDENTIFY OR OTHERWISE LINK ANY DATA THAT, IN THE ORDINARY
2 COURSE OF THE CONTROLLER, IS NOT MAINTAINED IN A MANNER THAT WOULD BE
3 CONSIDERED PERSONAL DATA.

4 C. A CONTROLLER IS PRESUMED TO HAVE SOLD PERSONAL DATA IF THERE IS
5 AN EXCHANGE OF PERSONAL DATA AND IF CONTRACT TERMS WITH THE THIRD PARTY DO
6 NOT LIMIT THE USE OF PERSONAL INFORMATION BY THE THIRD PARTY.

7 D. THIS SECTION DOES NOT ADVERSELY AFFECT THE RIGHTS OR FREEDOMS OF
8 OTHERS.

9 18-573. Personal information; correction; deletion; verified
10 requests; requirements; exceptions

11 A. ON RECEIPT OF A VERIFIED REQUEST FROM A CONSUMER, THE
12 CONTROLLER, WITHOUT UNDUE DELAY, SHALL CORRECT INACCURATE PERSONAL DATA
13 CONCERNING THE CONSUMER THAT THE CONTROLLER MAINTAINS IN IDENTIFIABLE
14 FORM. TAKING INTO ACCOUNT THE BUSINESS PURPOSES OF THE PROCESSING, THE
15 CONTROLLER SHALL COMPLETE INCOMPLETE PERSONAL DATA, INCLUDING BY MEANS OF
16 PROVIDING A SUPPLEMENTARY STATEMENT IF APPROPRIATE. IF THE CONTROLLER NO
17 LONGER HAS THE CONSUMER'S PERSONAL DATA, THE CONTROLLER SHALL NOTIFY THE
18 CONSUMER THAT THE PERSONAL DATA NO LONGER EXISTS AND MAY ASK IF THE
19 CONSUMER WOULD LIKE TO ADD THE CONSUMER'S PERSONAL INFORMATION.

20 B. A CONTROLLER THAT COLLECTS PERSONAL DATA ABOUT CONSUMERS SHALL
21 DISCLOSE TO EACH CONSUMER THE RIGHT TO REQUEST THE DELETION OF THE
22 CONSUMER'S PERSONAL DATA.

23 C. ON RECEIPT OF A VERIFIED REQUEST FOR DELETION FROM A CONSUMER, A
24 CONTROLLER SHALL DELETE THE CONSUMER'S PERSONAL DATA WITHOUT UNDUE DELAY
25 IF ONE OF THE FOLLOWING APPLIES:

26 1. THE PERSONAL DATA IS NO LONGER NECESSARY IN RELATION TO THE
27 PURPOSES FOR WHICH THE PERSONAL DATA WAS COLLECTED OR OTHERWISE PROCESSED.

28 2. FOR PROCESSING THAT REQUIRES CONSENT, THE CONSUMER WITHDRAWS
29 CONSENT TO PROCESSING AND THERE ARE NO BUSINESS PURPOSES FOR THE
30 PROCESSING.

31 3. THE PERSONAL DATA MUST BE DELETED TO COMPLY WITH A LEGAL
32 OBLIGATION UNDER A FEDERAL, STATE OR LOCAL LAW OR REGULATION TO WHICH THE
33 CONTROLLER IS SUBJECT.

34 4. THE CONTROLLER IS REQUIRED TO CERTIFY WHEN THE DELETION WAS
35 COMPLETED.

36 5. THE PERSONAL DATA HAS BEEN UNLAWFULLY PROCESSED.

37 D. A CONTROLLER OR PROCESSOR IS NOT REQUIRED TO COMPLY WITH A
38 CONSUMER'S REQUEST TO DELETE THE CONSUMER'S PERSONAL DATA IF IT IS
39 NECESSARY FOR THE CONTROLLER OR PROCESSOR TO MAINTAIN THE CONSUMER'S
40 PERSONAL DATA IN ORDER TO COMPLETE THE TRANSACTION FOR WHICH THE PERSONAL
41 DATA WAS COLLECTED, PROVIDE A GOOD OR SERVICE REQUESTED BY THE CONSUMER OR
42 REASONABLY ANTICIPATED WITHIN THE CONTEXT OF A CONTROLLER'S ONGOING
43 BUSINESS RELATIONSHIP WITH THE CONSUMER OR OTHERWISE PERFORM A CONTRACT
44 BETWEEN THE CONTROLLER AND THE CONSUMER.

1 E. IF A CONTROLLER IS REQUIRED TO DELETE PERSONAL DATA THAT THE
2 CONTROLLER MAINTAINS IN IDENTIFIABLE FORM THAT HAS BEEN DISCLOSED TO THIRD
3 PARTIES BY THE CONTROLLER, INCLUDING DATA BROKERS THAT RECEIVED THE
4 PERSONAL DATA THROUGH A SALE, THE CONTROLLER SHALL TAKE REASONABLE STEPS
5 TO INFORM OTHER CONTROLLERS OF WHICH IT IS AWARE THAT ARE PROCESSING SUCH
6 PERSONAL DATA AND THAT RECEIVED SUCH PERSONAL DATA FROM THE CONTROLLER OR
7 ARE PROCESSING SUCH PERSONAL DATA ON BEHALF OF THE CONTROLLER THAT THE
8 CONSUMER HAS REQUESTED THE DELETION BY THE OTHER CONTROLLERS OF ANY LINK
9 TO OR COPY OR REPLICATION OF THE PERSONAL DATA. COMPLIANCE WITH THIS
10 SUBSECTION MUST TAKE INTO ACCOUNT AVAILABLE TECHNOLOGY AND COST OF
11 IMPLEMENTATION.

12 F. THIS SECTION DOES NOT APPLY TO THE EXTENT THAT PROCESSING IS
13 NECESSARY:

14 1. FOR EXERCISING THE RIGHT OF FREE SPEECH.

15 2. FOR COMPLYING WITH A LEGAL OBLIGATION THAT REQUIRES PROCESSING
16 OF PERSONAL DATA BY A FEDERAL, STATE OR LOCAL LAW OR REGULATION TO WHICH
17 THE CONTROLLER IS SUBJECT OR FOR PERFORMING A TASK CARRIED OUT IN THE
18 PUBLIC INTEREST OR IN EXERCISING OFFICIAL AUTHORITY VESTED IN THE
19 CONTROLLER.

20 3. FOR REASONS OF PUBLIC INTEREST IN THE AREA OF PUBLIC HEALTH, IF
21 THE PROCESSING IS BOTH OF THE FOLLOWING:

22 (a) SUBJECT TO SUITABLE AND SPECIFIC MEASURES TO SAFEGUARD THE
23 RIGHTS OF THE CONSUMER.

24 (b) UNDER THE RESPONSIBILITY OF A PROFESSIONAL SUBJECT TO
25 CONFIDENTIALITY OBLIGATIONS UNDER A FEDERAL, STATE OR LOCAL LAW OR
26 REGULATION.

27 4. FOR ARCHIVING PURPOSES IN THE PUBLIC INTEREST, SCIENTIFIC OR
28 HISTORICAL RESEARCH PURPOSES OR STATISTICAL PURPOSES, IF DELETING SUCH
29 PERSONAL DATA IS LIKELY TO RENDER IMPOSSIBLE OR SERIOUSLY IMPAIR THE
30 ACHIEVEMENT OF THE OBJECTIVES OF THE PROCESSING.

31 5. FOR ESTABLISHING, EXERCISING OR DEFENDING LEGAL CLAIMS.

32 6. TO DETECT OR RESPOND TO SECURITY INCIDENTS, PROTECT AGAINST
33 MALICIOUS, DECEPTIVE, FRAUDULENT OR ILLEGAL ACTIVITY OR IDENTIFY,
34 INVESTIGATE OR PROSECUTE THOSE RESPONSIBLE FOR THAT ACTIVITY.

35 18-574. Restriction of processing; verified requests;
36 requirements

37 A. ON RECEIPT OF A VERIFIED REQUEST FROM A CONSUMER, THE CONTROLLER
38 SHALL RESTRICT PROCESSING OF PERSONAL DATA IF ANY OF THE FOLLOWING
39 APPLIES:

40 1. THE ACCURACY OF THE PERSONAL DATA IS CONTESTED BY THE CONSUMER,
41 FOR A PERIOD ENABLING THE CONTROLLER TO VERIFY THE ACCURACY OF THE
42 PERSONAL DATA.

43 2. THE PROCESSING IS UNLAWFUL AND THE CONSUMER OPPOSES THE DELETION
44 OF THE PERSONAL DATA AND INSTEAD REQUESTS THE RESTRICTION OF PROCESSING.

1 3. THE CONTROLLER NO LONGER NEEDS THE PERSONAL DATA FOR THE
2 PURPOSES OF THE PROCESSING BUT SUCH PERSONAL DATA IS REQUIRED BY THE
3 CONSUMER FOR ESTABLISHING, EXERCISING OR DEFENDING LEGAL CLAIMS.

4 4. THE CONSUMER OBJECTS TO THE PROCESSING PENDING THE VERIFICATION
5 OF WHETHER THE LEGITIMATE GROUNDS OF THE CONTROLLER OVERRIDE THOSE OF THE
6 CONSUMER.

7 B. IF PERSONAL DATA IS SUBJECT TO A RESTRICTION OF PROCESSING UNDER
8 THIS SECTION, THE PERSONAL DATA, EXCEPT FOR STORAGE, MAY BE PROCESSED ONLY
9 AS FOLLOWS:

- 10 1. WITH THE CONSUMER'S CONSENT.
- 11 2. TO ESTABLISH, EXERCISE OR DEFEND LEGAL CLAIMS.
- 12 3. TO PROTECT THE RIGHTS OF ANOTHER NATURAL OR LEGAL PERSON.
- 13 4. FOR REASONS OF IMPORTANT PUBLIC INTEREST UNDER A FEDERAL, STATE
14 OR LOCAL LAW OR REGULATION.

15 C. THE CONTROLLER SHALL INFORM A CONSUMER WHO HAS OBTAINED
16 RESTRICTION OF PROCESSING PURSUANT TO THIS SECTION BEFORE THE RESTRICTION
17 OF PROCESSING IS LIFTED AND THE PROPOSED LEGAL BASIS FOR DOING SO.

18 18-575. Receiving personal data; verified requests

19 A. ON A VERIFIED REQUEST FROM A CONSUMER, THE CONTROLLER SHALL
20 PROVIDE TO THE CONSUMER, IF TECHNICALLY FEASIBLE AND COMMERCIALY
21 REASONABLE, ANY PERSONAL DATA THAT THE CONTROLLER MAINTAINS IN
22 IDENTIFIABLE FORM CONCERNING THE CONSUMER THAT THE CONSUMER HAS PROVIDED
23 TO THE CONTROLLER IN A STRUCTURED, COMMONLY USED AND MACHINE-READABLE
24 FORMAT:

- 25 1. IF PROCESSING THE PERSONAL DATA IS NECESSARY TO PERFORM A
26 CONTRACT TO WHICH THE CONSUMER IS A PARTY.
- 27 2. IN ORDER TO TAKE STEPS AT THE REQUEST OF THE CONSUMER BEFORE
28 ENTERING INTO A CONTRACT.
- 29 3. IF THE PROCESSING IS CARRIED OUT BY AUTOMATED MEANS.

30 B. REQUESTS FOR PERSONAL DATA UNDER THIS SECTION MUST BE WITHOUT
31 PREJUDICE TO THE CONSUMER'S RIGHT TO DELETE.

32 C. THE RIGHTS PROVIDED IN THIS SECTION DO NOT APPLY TO PROCESSING
33 NECESSARY TO PERFORM A TASK CARRIED OUT IN THE PUBLIC INTEREST OR TO
34 EXERCISE OFFICIAL AUTHORITY VESTED IN THE CONTROLLER AND MUST NOT
35 ADVERSELY AFFECT THE RIGHTS OF OTHERS.

36 18-576. Objection to processing of personal data

37 A. A CONSUMER MAY OBJECT, THROUGH A VERIFIED OBJECTION, AT ANY
38 TIME, TO THE PROCESSING OF PERSONAL DATA CONCERNING THE CONSUMER.

39 B. ON RECEIPT OF A CONSUMER'S VERIFIED OBJECTION TO PROCESSING THE
40 CONSUMER'S PERSONAL DATA FOR TARGETED ADVERTISING, WHICH INCLUDES THE SALE
41 OF PERSONAL DATA THAT CONCERNS THE CONSUMER TO THIRD PARTIES FOR PURPOSES
42 OF TARGETED ADVERTISING, THE CONTROLLER MAY NOT PROCESS THE PERSONAL DATA
43 SUBJECT TO THE OBJECTION FOR SUCH PURPOSE AND SHALL TAKE REASONABLE STEPS
44 TO COMMUNICATE THE CONSUMER'S OBJECTION, UNLESS IT PROVES IMPOSSIBLE OR
45 INVOLVES DISPROPORTIONATE EFFORT, REGARDING ANY FURTHER PROCESSING OF THE

1 CONSUMER'S PERSONAL DATA FOR THE PURPOSES TO ANY THIRD PARTIES TO WHOM THE
2 CONTROLLER SOLD THE CONSUMER'S PERSONAL DATA FOR THAT PURPOSE. THIRD
3 PARTIES SHALL HONOR OBJECTION REQUESTS PURSUANT TO THIS SECTION RECEIVED
4 FROM THIRD-PARTY CONTROLLERS.

5 C. IF A CONSUMER OBJECTS TO PROCESSING FOR ANY PURPOSE OTHER THAN
6 TARGETED ADVERTISING, THE CONTROLLER MAY CONTINUE PROCESSING THE PERSONAL
7 DATA SUBJECT TO THE OBJECTION IF THE CONTROLLER CAN DEMONSTRATE A
8 LEGITIMATE GROUND TO PROCESS THAT PERSONAL DATA THAT OVERRIDES THE
9 POTENTIAL RISKS TO THE RIGHTS OF THE CONSUMER ASSOCIATED WITH THE
10 PROCESSING OR IF ANOTHER EXEMPTION IN THIS ARTICLE APPLIES.

11 18-577. Controller's responsibilities; exceptions

12 A. A CONTROLLER SHALL COMMUNICATE ANY CORRECTION, DELETION OR
13 RESTRICTION OF PROCESSING CARRIED OUT IN ACCORDANCE WITH THIS ARTICLE TO
14 EACH THIRD-PARTY RECIPIENT TO WHOM THE CONTROLLER KNOWS THE PERSONAL DATA
15 HAS BEEN DISCLOSED, INCLUDING THIRD PARTIES THAT RECEIVED THE DATA THROUGH
16 A SALE, WITHIN ONE YEAR PRECEDING THE VERIFIED REQUEST UNLESS THIS PROVES
17 FUNCTIONALLY IMPRACTICAL OR TECHNICALLY INFEASIBLE OR INVOLVES
18 DISPROPORTIONATE EFFORT OR THE CONTROLLER KNOWS OR IS INFORMED BY THE
19 THIRD PARTY THAT THE THIRD PARTY IS NOT CONTINUING TO USE THE PERSONAL
20 DATA.

21 B. A CONTROLLER SHALL PROVIDE INFORMATION ON ACTION TAKEN ON A
22 VERIFIED REQUEST UNDER THIS SECTION WITHOUT UNDUE DELAY AND WITHIN THIRTY
23 DAYS AFTER RECEIPT OF THE REQUEST. THE TIME PERIOD MAY BE EXTENDED BY
24 SIXTY ADDITIONAL DAYS IF REASONABLY NECESSARY, TAKING INTO ACCOUNT THE
25 COMPLEXITY AND NUMBER OF THE REQUESTS. THE CONTROLLER SHALL INFORM THE
26 CONSUMER OF ANY SUCH EXTENSION WITHIN THIRTY CALENDAR DAYS AFTER RECEIPT
27 OF THE VERIFIED OR VALIDATED REQUEST, TOGETHER WITH THE REASONS FOR THE
28 DELAY. IF THE CONSUMER MAKES THE VERIFIED OR VALIDATED REQUEST BY
29 ELECTRONIC MEANS, THE INFORMATION MUST BE PROVIDED BY ELECTRONIC MEANS IF
30 POSSIBLE, UNLESS OTHERWISE REQUESTED BY THE CONSUMER.

31 C. IF A CONTROLLER DOES NOT TAKE ACTION ON THE REQUEST OF A
32 CONSUMER, THE CONTROLLER SHALL INFORM THE CONSUMER WITHOUT UNDUE DELAY AND
33 AT THE LATEST WITHIN THIRTY DAYS AFTER RECEIPT OF THE REQUEST OF THE
34 REASONS FOR NOT TAKING ACTION AND ANY POSSIBILITY FOR INTERNAL REVIEW OF
35 THE DECISION BY THE CONTROLLER.

36 D. THE CONTROLLER SHALL PROVIDE INFORMATION UNDER THIS SECTION FREE
37 OF CHARGE TO THE CONSUMER. IF REQUESTS FROM A CONSUMER ARE MANIFESTLY
38 UNFOUNDED OR EXCESSIVE, IN PARTICULAR BECAUSE OF THEIR REPETITIVE
39 CHARACTER, THE CONTROLLER MAY EITHER:

40 1. CHARGE A REASONABLE FEE TAKING INTO ACCOUNT THE ADMINISTRATIVE
41 COSTS OF PROVIDING THE INFORMATION OR COMMUNICATION OR TAKING THE ACTION
42 REQUESTED.

43 2. REFUSE TO ACT ON THE REQUEST. THE CONTROLLER BEARS THE BURDEN OF
44 DEMONSTRATING THE MANIFESTLY UNFOUNDED OR EXCESSIVE CHARACTER OF THE

1 REQUEST AND MUST DETAIL THE CATEGORIES OR TYPES OF PERSONAL INFORMATION
2 AND THE EXCESSIVE CHARACTER OR NATURE OF THE REQUEST.

3 E. IF THE CONTROLLER HAS REASONABLE DOUBTS CONCERNING THE IDENTITY
4 OF THE CONSUMER MAKING A REQUEST UNDER THIS SECTION, THE CONTROLLER MAY
5 REQUEST ADDITIONAL INFORMATION NECESSARY TO CONFIRM THE IDENTITY OF THE
6 CONSUMER.

7 F. A CONSUMER IS NOT SUBJECT TO A DECISION BASED SOLELY ON
8 PROFILING THAT PRODUCES LEGAL EFFECTS CONCERNING THE CONSUMER OR THAT
9 SIMILARLY SIGNIFICANTLY AFFECTS THE CONSUMER. LEGAL OR SIMILARLY
10 SIGNIFICANT EFFECTS INCLUDE DENIAL OF CONSEQUENTIAL SERVICES OR SUPPORT,
11 SUCH AS FINANCIAL AND LENDING SERVICES, HOUSING, INSURANCE, EDUCATION
12 ENROLLMENT, CRIMINAL JUSTICE, EMPLOYMENT OPPORTUNITIES AND HEALTH CARE
13 SERVICES.

14 G. THIS SECTION DOES NOT APPLY IF THE DECISION IS:

15 1. NECESSARY FOR ENTERING INTO OR PERFORMING A CONTRACT BETWEEN THE
16 CONSUMER AND A CONTROLLER.

17 2. AUTHORIZED BY A FEDERAL, STATE OR LOCAL LAW OR REGULATION TO
18 WHICH THE CONTROLLER IS SUBJECT AND THAT INCORPORATES SUITABLE MEASURES TO
19 SAFEGUARD THE CONSUMER'S RIGHTS AND LEGITIMATE INTERESTS, AS INDICATED BY
20 THE RISK ASSESSMENTS REQUIRED BY THIS ARTICLE.

21 3. BASED ON THE CONSUMER'S INFORMED CONSENT.

22 H. NOTWITHSTANDING SUBSECTION G OF THIS SECTION, THE CONTROLLER
23 SHALL IMPLEMENT SUITABLE MEASURES TO SAFEGUARD CONSUMER RIGHTS AND
24 LEGITIMATE INTERESTS WITH RESPECT TO DECISIONS BASED SOLELY ON PROFILING,
25 INCLUDING PROVIDING HUMAN REVIEW OF THE DECISION, TO EXPRESS THE
26 CONSUMER'S POINT OF VIEW WITH RESPECT TO THE DECISION AND TO CONTEST THE
27 DECISION.

28 18-578. Enforcement; violation; civil penalty; consumer
29 privacy fund

30 A. THE ATTORNEY GENERAL MAY BRING AN ACTION IN THE NAME OF THIS
31 STATE, OR AS PARENS PATRIAE, ON BEHALF OF PERSONS RESIDING IN THIS STATE,
32 TO ENFORCE THIS ARTICLE.

33 B. A CONTROLLER OR PROCESSOR VIOLATES THIS ARTICLE IF THE
34 CONTROLLER OR PROCESSOR FAILS TO CURE ANY ALLEGED BREACH OF THIS ARTICLE
35 WITHIN THIRTY DAYS AFTER RECEIVING NOTICE OF ALLEGED NONCOMPLIANCE. ANY
36 CONTROLLER OR PROCESSOR THAT VIOLATES THIS ARTICLE IS SUBJECT TO AN
37 INJUNCTION AND IS LIABLE FOR A CIVIL PENALTY OF NOT MORE THAN \$2,500 FOR
38 EACH VIOLATION OR \$7,500 FOR EACH INTENTIONAL VIOLATION.

39 C. THE CONSUMER PRIVACY FUND IS ESTABLISHED CONSISTING OF CIVIL
40 PENALTIES IMPOSED UNDER THIS ARTICLE. THE ATTORNEY GENERAL SHALL
41 ADMINISTER THE FUND. THE MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE
42 APPROPRIATION.

43 18-579. State preemption

44 THE REGULATION OF DATA SECURITY IS OF STATEWIDE CONCERN. THE
45 REGULATION OF DATA SECURITY PURSUANT TO THIS ARTICLE SUPERSEDES ANY LOCAL

1 LAW OR REGULATION AND IS NOT SUBJECT TO FURTHER REGULATION BY A COUNTY,
2 CITY, TOWN OR OTHER POLITICAL SUBDIVISION OF THIS STATE.

3 18-580. Exceptions

4 A. THE OBLIGATIONS IMPOSED ON CONTROLLERS OR PROCESSORS UNDER THIS
5 ARTICLE DO NOT RESTRICT A CONTROLLER'S OR PROCESSOR'S ABILITY TO DO ANY OF
6 THE FOLLOWING:

7 1. COMPLY WITH FEDERAL, STATE OR LOCAL LAWS AND REGULATIONS.

8 2. COMPLY WITH A CIVIL, CRIMINAL OR REGULATORY INQUIRY,
9 INVESTIGATION, SUBPOENA OR SUMMONS BY A FEDERAL, STATE, LOCAL OR OTHER
10 GOVERNMENTAL AUTHORITY.

11 3. COOPERATE WITH LAW ENFORCEMENT AGENCIES CONCERNING CONDUCT OR
12 ACTIVITY THAT THE CONTROLLER OR PROCESSOR REASONABLY AND IN GOOD FAITH
13 BELIEVES MAY VIOLATE A FEDERAL, STATE OR LOCAL LAW OR REGULATION.

14 4. INVESTIGATE, EXERCISE OR DEFEND LEGAL CLAIMS.

15 5. PREVENT OR DETECT IDENTITY THEFT, FRAUD OR OTHER CRIMINAL
16 ACTIVITY OR VERIFY IDENTITIES.

17 B. THE OBLIGATIONS IMPOSED ON CONTROLLERS AND PROCESSORS UNDER THIS
18 ARTICLE DO NOT APPLY IF COMPLIANCE BY THE CONTROLLER OR PROCESSOR WITH
19 THIS ARTICLE WOULD VIOLATE AN EVIDENTIARY PRIVILEGE UNDER THE LAWS OF THIS
20 STATE AND DO NOT PREVENT THE CONTROLLER OR PROCESSOR FROM PROVIDING
21 PERSONAL DATA CONCERNING A CONSUMER TO A PERSON COVERED BY AN EVIDENTIARY
22 PRIVILEGE UNDER THE LAWS OF THIS STATE AS PART OF A PRIVILEGED
23 COMMUNICATION.

24 C. A CONTROLLER OR PROCESSOR THAT DISCLOSES PERSONAL DATA TO A
25 THIRD-PARTY CONTROLLER OR PROCESSOR IN COMPLIANCE WITH THE REQUIREMENTS OF
26 THIS ARTICLE IS NOT IN VIOLATION OF THIS ARTICLE IF THE THIRD-PARTY
27 RECIPIENT PROCESSES THE PERSONAL DATA IN VIOLATION OF THIS ARTICLE, IF AT
28 THE TIME OF DISCLOSING THE PERSONAL DATA THE DISCLOSING CONTROLLER OR
29 PROCESSOR DID NOT HAVE ACTUAL KNOWLEDGE THAT THE THIRD-PARTY RECIPIENT
30 INTENDED TO COMMIT A VIOLATION. A THIRD-PARTY RECIPIENT THAT RECEIVES
31 PERSONAL DATA FROM A CONTROLLER OR PROCESSOR IS LIKewise NOT LIABLE UNDER
32 THIS ARTICLE FOR THE OBLIGATIONS OF A CONTROLLER OR PROCESSOR TO WHICH IT
33 PROVIDES SERVICES.

34 D. THIS ARTICLE DOES NOT REQUIRE A CONTROLLER OR PROCESSOR TO DO
35 ANY OF THE FOLLOWING:

36 1. REIDENTIFY DEIDENTIFIED DATA.

37 2. RETAIN PERSONAL DATA CONCERNING A CONSUMER THAT THE CONTROLLER
38 OR PROCESSOR WOULD NOT OTHERWISE RETAIN IN THE ORDINARY COURSE OF
39 BUSINESS.

40 3. COMPLY WITH A REQUEST TO EXERCISE ANY OF THE RIGHTS OF THIS
41 ARTICLE IF THE CONTROLLER OR PROCESSOR IS UNABLE TO VERIFY, USING
42 COMMERCIALY REASONABLE EFFORTS, THE IDENTITY OF THE CONSUMER MAKING THE
43 REQUEST.

44 4. RETAIN PERSONAL DATA BEYOND EXISTING LEGAL OBLIGATIONS, RULES OR
45 LAWS.

1 E. OBLIGATIONS IMPOSED ON CONTROLLERS AND PROCESSORS UNDER THIS
2 ARTICLE DO NOT:
3 1. ADVERSELY AFFECT THE RIGHTS OF ANY PERSONS.
4 2. APPLY TO PROCESSING PERSONAL DATA BY A NATURAL PERSON IN THE
5 COURSE OF A PURELY PERSONAL OR HOUSEHOLD ACTIVITY.
6 18-581. Liability
7 A. THIS ARTICLE DOES NOT SERVE AS THE BASIS FOR A PRIVATE RIGHT OF
8 ACTION UNDER THIS ARTICLE OR ANY OTHER LAW.
9 B. IF MORE THAN ONE CONTROLLER OR PROCESSOR, OR BOTH A CONTROLLER
10 AND A PROCESSOR, INVOLVED IN THE SAME PROCESSING ARE IN VIOLATION OF THIS
11 ARTICLE, THE LIABILITY SHALL BE ALLOCATED AMONG THE PARTIES ACCORDING TO
12 PRINCIPLES OF COMPARATIVE FAULT, UNLESS SUCH LIABILITY IS OTHERWISE
13 ALLOCATED BY CONTRACT AMONG THE PARTIES.
14 18-582. Applicability
15 A. THIS ARTICLE APPLIES TO A LEGAL ENTITY WITH AN ANNUAL GROSS
16 REVENUE OF AT LEAST \$25,000,000 THAT CONDUCTS BUSINESS IN THIS STATE OR
17 PRODUCES PRODUCTS OR SERVICES THAT ARE INTENTIONALLY TARGETED TO RESIDENTS
18 OF THIS STATE AND THAT SATISFIES EITHER OF THE FOLLOWING THRESHOLDS:
19 1. CONTROLS OR PROCESSES DATA OF AT LEAST ONE HUNDRED THOUSAND
20 CONSUMERS.
21 2. DERIVES OVER THIRTY-FIVE PERCENT OF GROSS REVENUE FROM THE SALE
22 OF PERSONAL INFORMATION AND PROCESSES OR CONTROLS PERSONAL INFORMATION OF
23 AT LEAST TWENTY-FIVE THOUSAND CONSUMERS.
24 B. THIS ARTICLE DOES NOT APPLY TO:
25 1. STATE AND LOCAL GOVERNMENTS.
26 2. PERSONAL DATA SETS TO THE EXTENT THAT THE DATA SETS ARE
27 REGULATED BY THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF
28 1996 (P.L. 104-191), THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND
29 CLINICAL HEALTH ACT (P.L. 111-5) OR THE GRAMM-LEACH-BLILEY ACT OF 1999
30 (P.L. 106-102).
31 3. DATA SETS THAT ARE MAINTAINED FOR EMPLOYMENT RECORDS PURPOSES.
32 4. BUSINESSES AND ACTIVITIES THAT ARE COVERED BY THE FAIR CREDIT
33 REPORTING ACT (P.L. 90-321).