

By the Committees on Rules; and Commerce and Tourism; and  
Senator Bradley

595-04199-23

2023262c2

1                                   A bill to be entitled  
2       An act relating to technology transparency; creating  
3       s. 112.23, F.S.; defining terms; prohibiting officers  
4       or salaried employees of governmental entities from  
5       using their positions or state resources to make  
6       certain requests of social media platforms;  
7       prohibiting governmental entities from initiating or  
8       maintaining agreements or working relationships with  
9       social media platforms under a specified circumstance;  
10      providing exceptions; providing directives to the  
11      Division of Law Revision; creating s. 501.701, F.S.;  
12      providing a short title; creating s. 501.702, F.S.;  
13      defining terms; creating s. 501.703, F.S.; providing  
14      applicability; creating s. 501.704, F.S.; providing  
15      exemptions; creating s. 501.705, F.S.; providing that  
16      a consumer may submit requests to controllers to  
17      exercise specified rights; requiring controllers to  
18      comply with certain authenticated consumer requests;  
19      creating s. 501.706, F.S.; providing timeframes within  
20      which controllers must respond to consumer requests;  
21      providing notice requirements for controllers that  
22      cannot take action regarding a consumer's request;  
23      providing that controllers are not required to comply  
24      with certain consumer requests; providing notice  
25      requirements for controllers' compliance with consumer  
26      requests; requiring responses to consumer requests to  
27      be made free of charge; providing exceptions;  
28      specifying the methods by which controllers may be  
29      considered to be in compliance with consumer requests

595-04199-23

2023262c2

30 for the controller to delete their personal data;  
31 creating s. 501.707, F.S.; requiring controllers to  
32 establish a process for consumers to appeal the  
33 controller's refusal to take action on the consumer's  
34 request within a specified timeframe; providing  
35 requirements for such process; creating s. 501.708,  
36 F.S.; providing that contracts or agreements that  
37 waive or limit specified consumer rights are void and  
38 unenforceable; creating s. 501.709, F.S.; requiring  
39 controllers to establish methods for submitting  
40 consumer requests; prohibiting controllers from  
41 requiring consumers to create new accounts to exercise  
42 their consumer rights; requiring controllers to  
43 provide a certain mechanism on their websites for  
44 consumers to submit certain requests; creating s.  
45 501.71, F.S.; requiring controllers to limit the  
46 collection of personal data according to certain  
47 parameters; requiring controllers to establish,  
48 implement, and maintain specified practices regarding  
49 personal data; prohibiting controllers from taking  
50 certain actions regarding a consumer's personal data;  
51 prohibiting controllers from discriminating against  
52 consumers exercising their consumer rights; providing  
53 construction; requiring a controller that operates a  
54 search engine to make certain information available on  
55 its webpage; creating s. 501.711, F.S.; requiring  
56 controllers to provide consumers with privacy notices  
57 that meet certain requirements; requiring controllers  
58 that engage in the sale of sensitive or biometric

595-04199-23

2023262c2

59 personal data to provide notices that meet certain  
60 requirements; requiring controllers that sell personal  
61 data or process personal data for targeted advertising  
62 to disclose certain information; prohibiting  
63 controllers from collecting additional categories of  
64 personal information or using such information for  
65 additional purposes without providing specified  
66 notice; creating s. 501.712, F.S.; requiring  
67 processors to adhere to controller instructions and to  
68 assist the controller in meeting or complying with  
69 certain requirements; providing requirements for  
70 contracts between controllers and processors regarding  
71 data processing procedures; providing construction;  
72 providing that the determination of whether a person  
73 is acting as a controller or processor is a fact-based  
74 determination; creating s. 501.713, F.S.; requiring  
75 controllers to conduct and document data protection  
76 assessments of specified processing activities  
77 involving personal data; providing requirements for  
78 such assessments; providing applicability; creating s.  
79 501.714, F.S.; requiring controllers in possession of  
80 deidentified data to take certain actions; providing  
81 construction; providing that specified consumer rights  
82 and controller duties do not apply to pseudonymous  
83 data or aggregate consumer information under certain  
84 circumstances; requiring controllers that disclose  
85 pseudonymous data, deidentified data, or aggregate  
86 consumer information to exercise reasonable oversight  
87 and take appropriate steps to address breaches of

595-04199-23

2023262c2

88 contractual agreements; creating s. 501.715, F.S.;

89 requiring certain persons to receive consumer consent

90 before engaging in the sale of sensitive personal

91 data; requiring a specified notice; providing for

92 penalties; creating s. 501.716, F.S.; providing

93 exemptions for specified controller or processor uses

94 of consumer personal data; providing that controllers

95 or processors may provide personal data concerning a

96 consumer to certain covered persons; creating s.

97 501.717, F.S.; authorizing controllers and processors

98 to collect, use, or retain data for specified

99 purposes; providing that certain requirements do not

100 apply if such compliance would violate certain laws;

101 creating s. 501.718, F.S.; providing circumstances

102 under which processors are not in violation of this

103 act for the disclosure of personal data to a third-

104 party controller or processor; providing that third-

105 party controllers or processors that comply with this

106 part are not liable for violations committed by

107 controllers or processors from whom they receive

108 personal data; creating s. 501.719, F.S.; providing

109 requirements for the processing of certain personal

110 data by controllers; requiring controllers and

111 processors to adopt and implement a retention schedule

112 that meets certain requirements; requiring controllers

113 or processors that process certain personal data to

114 demonstrate that such processing qualifies for a

115 specified exemption; creating s. 501.72, F.S.;

116 authorizing the Department of Legal Affairs to bring

595-04199-23

2023262c2

117 an action under the Florida Deceptive and Unfair Trade  
118 Practices Act for violations of the act; providing for  
119 civil penalties; providing for enhanced civil  
120 penalties for certain violations; authorizing the  
121 department to grant a specified timeframe within which  
122 an alleged violation may be cured; providing an  
123 exception; providing certain factors the department  
124 may take into consideration; requiring the department  
125 to make a report regarding certain enforcement actions  
126 publicly available on the department's website;  
127 providing requirements for the report; requiring the  
128 department to adopt rules; authorizing the department  
129 to collaborate and cooperate with specified  
130 enforcement authorities; specifying that the act does  
131 not create a private cause of action; authorizing the  
132 department to employ or use outside legal counsel for  
133 specified purposes; providing for jurisdiction;  
134 creating s. 501.721, F.S.; declaring that the act is a  
135 matter of statewide concern; preempting the  
136 collection, processing, sharing, and sale of consumer  
137 personal data to the state; amending s. 501.171, F.S.;  
138 revising the definition of the term "personal  
139 information"; amending s. 16.53, F.S.; requiring that  
140 certain attorney fees, costs, and penalties recovered  
141 by the Attorney General be deposited in the Legal  
142 Affairs Revolving Trust Fund; providing an effective  
143 date.

144  
145 Be It Enacted by the Legislature of the State of Florida:

595-04199-23

2023262c2

146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174

Section 1. Section 112.23, Florida Statutes, is created to read:

112.23 Government-directed content moderation of social media platforms prohibited.-

(1) As used in this section, the term:

(a) "Governmental entity" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law, including, but not limited to, the Commission on Ethics, the Public Service Commission, the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

(b) "Social media platform" means a form of electronic communication through which users create online communities to share information, ideas, personal messages, and other content.

(2) An officer or a salaried employee of a governmental entity may not use his or her position or any state resources to communicate with a social media platform to request the social media platform to remove content or accounts from the social media platform.

(3) A governmental entity, or an officer or a salaried employee acting on behalf of a governmental entity, may not initiate or maintain any agreements or working relationships with a social media platform for the purpose of content moderation.

(4) Subsections (2) and (3) do not apply if the governmental entity or an officer or a salaried employee acting

595-04199-23

2023262c2

175 on behalf of a governmental entity is acting as part of any of  
176 the following:

177 (a) Routine account management of the governmental entity's  
178 account, including, but not limited to, the removal or revision  
179 of the governmental entity's content or account or  
180 identification of accounts falsely posing as a governmental  
181 entity, officer, or salaried employee.

182 (b) An attempt to remove content that pertains to the  
183 commission of a crime or violation of this state's public  
184 records law.

185 (c) An attempt to remove an account that pertains to the  
186 commission of a crime or violation of this state's public  
187 records law.

188 (d) An investigation or inquiry related to an effort to  
189 prevent imminent bodily harm, loss of life, or property damage.

190 Section 2. The Division of Law Revision is directed to:

191 (1) Redesignate current parts V, VI, and VII of chapter  
192 501, Florida Statutes, as parts VI, VII, and VIII of chapter  
193 501, Florida Statutes, respectively; and

194 (2) Create a new part V of chapter 501, Florida Statutes,  
195 consisting of ss. 501.701-501.721, Florida Statutes, entitled  
196 "Data Privacy and Security."

197 Section 3. Section 501.701, Florida Statutes, is created to  
198 read:

199 501.701 Short title.—This part may be cited as the "Florida  
200 Digital Bill of Rights."

201 Section 4. Section 501.702, Florida Statutes, is created to  
202 read:

203 501.702 Definitions.—As used in this part, the term:

595-04199-23

2023262c2

204       (1) "Affiliate" means a legal entity that controls, is  
205 controlled by, or is under common control with another legal  
206 entity or that shares common branding with another legal entity.

207 For purposes of this subsection, the term "control" or  
208 "controlled" means any of the following:

209       (a) The ownership of, or power to vote, more than 50  
210 percent of the outstanding shares of any class of voting  
211 security of a company.

212       (b) The control in any manner over the election of a  
213 majority of the directors or of individuals exercising similar  
214 functions.

215       (c) The power to exercise controlling influence over the  
216 management of a company.

217       (2) "Aggregate consumer information" means information that  
218 relates to a group or category of consumers, from which the  
219 identity of an individual consumer has been removed and is not  
220 reasonably capable of being directly or indirectly associated or  
221 linked with any consumer, household, or device. The term does  
222 not include information about a group or category of consumers  
223 used to facilitate targeted advertising or the display of ads  
224 online. The term does not include personal information that has  
225 been deidentified.

226       (3) "Authenticate" or "authenticated" means to verify or  
227 the state of having been verified, respectively, through  
228 reasonable means that the consumer who is entitled to exercise  
229 the consumer's rights under s. 501.705 is the same consumer  
230 exercising those consumer rights with respect to the personal  
231 data at issue.

232       (4) "Biometric data" means data generated by automatic

595-04199-23

2023262c2

233 measurements of an individual's biological characteristics. The  
234 term includes fingerprints, voiceprints, eye retinas or irises,  
235 or other unique biological patterns or characteristics used to  
236 identify a specific individual. The term does not include  
237 physical or digital photographs, video or audio recordings or  
238 data generated from video or audio recordings, or information  
239 collected, used, or stored for health care treatment, payment,  
240 or operations under the Health Insurance Portability and  
241 Accountability Act of 1996, 42 U.S.C. ss. 1320d et seq.

242 (5) "Business associate" has the same meaning as in 45  
243 C.F.R. s. 160.103 and the Health Insurance Portability and  
244 Accountability Act of 1996, 42 U.S.C. ss. 1320d et seq.

245 (6) "Child" means an individual younger than 18 years of  
246 age.

247 (7) "Consent," when referring to a consumer, means a clear  
248 affirmative act signifying a consumer's freely given, specific,  
249 informed, and unambiguous agreement to process personal data  
250 relating to the consumer. The term includes a written statement,  
251 including a statement written by electronic means, or any other  
252 unambiguous affirmative act. The term does not include any of  
253 the following:

254 (a) Acceptance of a general or broad terms of use or  
255 similar document that contains descriptions of personal data  
256 processing along with other, unrelated information.

257 (b) Hovering over, muting, pausing, or closing a given  
258 piece of content.

259 (c) Agreement obtained through the use of dark patterns.

260 (8) "Consumer" means an individual who is a resident of or  
261 is domiciled in this state acting only in an individual or

595-04199-23

2023262c2

262 household context. The term does not include an individual  
263 acting in a commercial or employment context.

264 (9) "Controller" means

265 (a) A sole proprietorship, partnership, limited liability  
266 company, corporation, association, or legal entity that meets  
267 the following requirements:

268 1. Is organized or operated for the profit or financial  
269 benefit of its shareholders or owners;

270 2. Conducts business in this state;

271 3. Collects personal data about consumers, or is the entity  
272 on behalf of which such information is collected;

273 4. Determines the purposes and means of processing personal  
274 data about consumers alone or jointly with others;

275 5. Makes in excess of \$1 billion in global gross annual  
276 revenues; and

277 6. Satisfies at least one of the following:

278 a. Derives 50 percent or more of its global gross annual  
279 revenues from the sale of advertisements, including providing  
280 targeted advertising or the sale of ads online;

281 b. Operates a consumer smart speaker and voice command  
282 component service with an integrated virtual assistant connected  
283 to a cloud computing service that uses hands-free verbal  
284 activation. For purposes of this sub-subparagraph, a consumer  
285 smart speaker and voice command component service does not  
286 include a motor vehicle or speaker or device associated with or  
287 connected to a vehicle which is operated by a motor vehicle  
288 manufacturer or a subsidiary or affiliate thereof; or

289 c. Operates an app store or a digital distribution platform  
290 that offers at least 250,000 different software applications for

595-04199-23

2023262c2

291 consumers to download and install.

292 (b) Any entity that controls or is controlled by a  
293 controller. As used in this paragraph, the term "control" means:

294 1. Ownership of, or the power to vote, more than 50 percent  
295 of the outstanding shares of any class of voting security of a  
296 controller;

297 2. Control in any manner over the election of a majority of  
298 the directors, or of individuals exercising similar functions;  
299 or

300 3. The power to exercise a controlling influence over the  
301 management of a company.

302 (10) "Covered entity" has the same meaning as in 45 C.F.R.  
303 s. 160.103 and the Health Insurance Portability and  
304 Accountability Act of 1996, 42 U.S.C. ss. 1320d et seq.

305 (11) "Dark pattern" means a user interface designed or  
306 manipulated with the effect of substantially subverting or  
307 impairing user autonomy, decisionmaking, or choice. The term  
308 includes any practice the Federal Trade Commission refers to as  
309 a dark pattern.

310 (12) "Decision that produces a legal or similarly  
311 significant effect concerning a consumer" means a decision made  
312 by a controller which results in the provision or denial by the  
313 controller of any of the following:

314 (a) Financial and lending services.

315 (b) Housing, insurance, or health care services.

316 (c) Education enrollment.

317 (d) Employment opportunities.

318 (e) Criminal justice.

319 (f) Access to basic necessities, such as food and water.

595-04199-23

2023262c2

320 (13) "Deidentified data" means data that cannot reasonably  
321 be linked to an identified or identifiable individual or a  
322 device linked to that individual.

323 (14) "Health care provider" has the same meaning as in 45  
324 C.F.R. s. 160.103 and the Health Insurance Portability and  
325 Accountability Act of 1996, 42 U.S.C. ss. 1320d et seq.

326 (15) "Health record" means any written, printed, or  
327 electronically recorded material maintained by a health care  
328 provider in the course of providing health care services to an  
329 individual which concerns the individual and the services  
330 provided. The term includes any of the following:

331 (a) The substance of any communication made by an  
332 individual to a health care provider in confidence during or in  
333 connection with the provision of health care services.

334 (b) Information otherwise acquired by the health care  
335 provider about an individual in confidence and in connection  
336 with health care services provided to the individual.

337 (16) "Identified or identifiable individual" means a  
338 consumer who can be readily identified, directly or indirectly.

339 (17) "Known child" means a child under circumstances of  
340 which a controller has actual knowledge of, or willfully  
341 disregards, the child's age.

342 (18) "Nonprofit organization" means any of the following:

343 (a) An organization exempt from federal taxation under s.  
344 501(a) of the Internal Revenue Code of 1986 by virtue of being  
345 listed as an exempt organization under s. 501(c) (3), s.  
346 501(c) (4), s. 501(c) (6), or s. 501(c) (12) of that code.

347 (b) A political organization.

348 (19) "Personal data" means any information, including

595-04199-23

2023262c2

349 sensitive data, which is linked or reasonably linkable to an  
350 identified or identifiable individual. The term includes  
351 pseudonymous data when the data is used by a controller or  
352 processor in conjunction with additional information that  
353 reasonably links the data to an identified or identifiable  
354 individual. The term does not include deidentified data or  
355 publicly available information.

356 (20) "Political organization" means a party, a committee,  
357 an association, a fund, or any other organization, regardless of  
358 whether incorporated, organized and operated primarily for the  
359 purpose of influencing or attempting to influence any of the  
360 following:

361 (a) The selection, nomination, election, or appointment of  
362 an individual to a federal, state, or local public office or an  
363 office in a political organization, regardless of whether the  
364 individual is selected, nominated, elected, or appointed.

365 (b) The election of a presidential or vice-presidential  
366 elector, regardless of whether the elector is selected,  
367 nominated, elected, or appointed.

368 (21) "Postsecondary education institution" means a Florida  
369 College System institution, state university, or nonpublic  
370 postsecondary education institution that receives state funds.

371 (22) "Precise geolocation data" means information derived  
372 from technology, including global positioning system level  
373 latitude and longitude coordinates or other mechanisms, which  
374 directly identifies the specific location of an individual with  
375 precision and accuracy within a radius of 1,750 feet. The term  
376 does not include the content of communications or any data  
377 generated by or connected to an advanced utility metering

595-04199-23

2023262c2

378 infrastructure system or to equipment for use by a utility.

379 (23) "Process" or "processing" means an operation or set of  
380 operations performed, whether by manual or automated means, on  
381 personal data or on sets of personal data, such as the  
382 collection, use, storage, disclosure, analysis, deletion, or  
383 modification of personal data.

384 (24) "Processor" means a person who processes personal data  
385 on behalf of a controller.

386 (25) "Profiling" means any form of solely automated  
387 processing performed on personal data to evaluate, analyze, or  
388 predict personal aspects related to an identified or  
389 identifiable individual's economic situation, health, personal  
390 preferences, interests, reliability, behavior, location, or  
391 movements.

392 (26) "Protected health information" has the same meaning as  
393 in 45 C.F.R. s. 160.103 and the Health Insurance Portability and  
394 Accountability Act of 1996, 42 U.S.C. ss. 1320d et seq.

395 (27) "Pseudonymous data" means any information that cannot  
396 be attributed to a specific individual without the use of  
397 additional information, provided that the additional information  
398 is kept separately and is subject to appropriate technical and  
399 organizational measures to ensure that the personal data is not  
400 attributed to an identified or identifiable individual.

401 (28) "Publicly available information" means information  
402 lawfully made available through government records, or  
403 information that a business has a reasonable basis for believing  
404 is lawfully made available to the general public through widely  
405 distributed media, by a consumer, or by a person to whom a  
406 consumer has disclosed the information, unless the consumer has

595-04199-23

2023262c2

407 restricted the information to a specific audience.

408 (29) "Sale of personal data" means the sharing, disclosing,  
409 or transferring of personal data for monetary or other valuable  
410 consideration by the controller to a third party. The term does  
411 not include any of the following:

412 (a) The disclosure of personal data to a processor who  
413 processes the personal data on the controller's behalf.

414 (b) The disclosure of personal data to a third party for  
415 purposes of providing a product or service requested by the  
416 consumer.

417 (c) The disclosure of information that the consumer:

418 1. Intentionally made available to the general public  
419 through a mass media channel; and

420 2. Did not restrict to a specific audience.

421 (d) The disclosure or transfer of personal data to a third  
422 party as an asset that is part of a merger or an acquisition.

423 (30) "Search engine" means technology and systems that use  
424 algorithms to sift through and index vast third-party websites  
425 and content on the Internet in response to search queries  
426 entered by a user. The term does not include the license of  
427 search functionality for the purpose of enabling the licensee to  
428 operate a third-party search engine service in circumstances  
429 where the licensee does not have legal or operational control of  
430 the search algorithm, the index from which results are  
431 generated, or the ranking order in which the results are  
432 provided.

433 (31) "Sensitive data" means a category of personal data  
434 which includes any of the following:

435 (a) Personal data revealing an individual's racial or

595-04199-23

2023262c2

436 ethnic origin, religious beliefs, mental or physical health  
437 diagnosis, sexual orientation, or citizenship or immigration  
438 status.

439 (b) Genetic or biometric data processed for the purpose of  
440 uniquely identifying an individual.

441 (c) Personal data collected from a known child.

442 (d) Precise geolocation data.

443 (32) "State agency" means any department, commission,  
444 board, office, council, authority, or other agency in the  
445 executive branch of state government created by the State  
446 Constitution or state law. The term includes a postsecondary  
447 education institution.

448 (33) "Targeted advertising" means displaying to a consumer  
449 an advertisement selected based on personal data obtained from  
450 that consumer's activities over time and across nonaffiliated  
451 websites or online applications to predict the consumer's  
452 preferences or interests. The term does not include any of the  
453 following:

454 (a) An advertisement that is:

455 1. Based on activities within a controller's own website or  
456 online application;

457 2. Based on the context of a consumer's current search  
458 query, visit to a website, or use of an online application; or

459 3. Directed to a consumer in response to the consumer's  
460 request for information or feedback.

461 (b) The processing of personal data solely for measuring or  
462 reporting advertising performance, reach, or frequency.

463 (34) "Third party" means a person, other than the consumer,  
464 the controller, the processor, or an affiliate of the controller

595-04199-23

2023262c2

465 or processor.

466 (35) "Trade secret" has the same meaning as in s. 812.081.

467 (36) "Voice recognition feature" means the function of a  
468 device which enables the collection, recording, storage,  
469 analysis, transmission, interpretation, or other use of spoken  
470 words or other sounds.

471 Section 5. Section 501.703, Florida Statutes, is created to  
472 read:

473 501.703 Applicability.—

474 (1) This part applies only to a person who:

475 (a) Conducts business in this state or produces a product  
476 or service used by residents of this state; and

477 (b) Processes or engages in the sale of personal data.

478 (2) This part does not apply to any of the following:

479 (a) A state agency or a political subdivision of the state.

480 (b) A financial institution or data subject to Title V,  
481 Gramm-Leach-Bliley Act, 15 U.S.C. ss. 6801 et seq.

482 (c) A covered entity or business associate governed by the  
483 privacy, security, and breach notification regulations issued by  
484 the United States Department of Health and Human Services, 45  
485 C.F.R. parts 160 and 164, established under the Health Insurance  
486 Portability and Accountability Act of 1996, 42 U.S.C. ss. 1320d  
487 et seq., and the Health Information Technology for Economic and  
488 Clinical Health Act, Division A, Title XIII and Division B,  
489 Title IV, Pub. L. No. 111-5.

490 (d) A nonprofit organization.

491 (e) A postsecondary education institution.

492 (3) This part does not apply to the processing of personal  
493 data by a person in the course of a purely personal or household

595-04199-23

2023262c2

494 activity.

495 (4) A controller or processor that complies with the  
496 authenticated parental consent requirements of the Children's  
497 Online Privacy Protection Act, 15 U.S.C. ss. 6501 et seq., with  
498 respect to data collected online, is considered to be in  
499 compliance with any requirement to obtain parental consent under  
500 this part.

501 Section 6. Section 501.704, Florida Statutes, is created to  
502 read:

503 501.704 Exemptions.—All of the following information is  
504 exempt from this part:

505 (1) Protected health information under the Health Insurance  
506 Portability and Accountability Act of 1996, 42 U.S.C. ss. 1320d  
507 et seq.

508 (2) Health records.

509 (3) Patient identifying information for purposes of 42  
510 U.S.C. s. 290dd-2.

511 (4) Identifiable private information:

512 (a) For purposes of the federal policy for the protection  
513 of human subjects under 45 C.F.R. part 46;

514 (b) Collected as part of human subjects research under the  
515 good clinical practice guidelines issued by the International  
516 Council for Harmonisation of Technical Requirements for  
517 Pharmaceuticals for Human Use or the protection of human  
518 subjects under 21 C.F.R. parts 50 and 56; or

519 (c) That is personal data used or shared in research  
520 conducted in accordance with this part or other research  
521 conducted in accordance with applicable law.

522 (5) Information and documents created for purposes of the

595-04199-23

2023262c2

523 Health Care Quality Improvement Act of 1986, 42 U.S.C. ss. 11101  
524 et seq.

525 (6) Patient safety work product for purposes of the Patient  
526 Safety and Quality Improvement Act of 2005, 42 U.S.C. ss. 299b-  
527 21 et seq.

528 (7) Information derived from any of the health care-related  
529 information listed in this section which is deidentified in  
530 accordance with the requirements for deidentification under the  
531 Health Insurance Portability and Accountability Act of 1996, 42  
532 U.S.C. ss. 1320d et seq.

533 (8) Information originating from, and intermingled to be  
534 indistinguishable with, or information treated in the same  
535 manner as, information exempt under this section which is  
536 maintained by a covered entity or business associate as defined  
537 by the Health Insurance Portability and Accountability Act of  
538 1996, 42 U.S.C. ss. 1320d et seq. or by a program or a qualified  
539 service organization as defined by 42 U.S.C. s. 290dd-2.

540 (9) Information included in a limited data set as described  
541 by 45 C.F.R. s. 164.514(e), to the extent that the information  
542 is used, disclosed, and maintained in the manner specified by 45  
543 C.F.R. s. 164.514(e).

544 (10) Information used only for public health activities and  
545 purposes as described in 45 C.F.R. s. 164.512.

546 (11) Information collected or used only for public health  
547 activities and purposes as authorized by the Health Insurance  
548 Portability and Accountability Act of 1996, 42 U.S.C. ss. 1320d  
549 et seq.

550 (12) The collection, maintenance, disclosure, sale,  
551 communication, or use of any personal data bearing on a

595-04199-23

2023262c2

552 consumer's creditworthiness, credit standing, credit capacity,  
553 character, general reputation, personal characteristics, or mode  
554 of living by a consumer reporting agency or furnisher that  
555 provides information for use in a consumer report, or by a user  
556 of a consumer report, but only to the extent that the activity  
557 is regulated by and authorized under the Fair Credit Reporting  
558 Act, 15 U.S.C. ss. 1681 et seq.

559 (13) Personal data collected, processed, sold, or disclosed  
560 in compliance with the Driver's Privacy Protection Act of 1994,  
561 18 U.S.C. ss. 2721 et seq.

562 (14) Personal data regulated by the Family Educational  
563 Rights and Privacy Act of 1974, 20 U.S.C. s. 1232g.

564 (15) Personal data collected, processed, sold, or disclosed  
565 in compliance with the Farm Credit Act of 1971, 12 U.S.C. ss.  
566 2001 et seq.

567 (16) Data processed or maintained in the course of an  
568 individual applying to, being employed by, or acting as an agent  
569 or independent contractor of a controller, processor, or third  
570 party, to the extent that the data is collected and used within  
571 the context of that role.

572 (17) Data processed or maintained as the emergency contact  
573 information of an individual under this part which is used for  
574 emergency contact purposes.

575 (18) Data that is processed or maintained and that is  
576 necessary to retain to administer benefits for another  
577 individual which relates to an individual described in  
578 subsection (16) and which is used for the purposes of  
579 administering those benefits.

580 (19) Personal data collected and transmitted which is

595-04199-23

2023262c2

581 necessary for the sole purpose of sharing such personal data  
582 with a financial service provider solely to facilitate short-  
583 term, transactional payment processing for the purchase of  
584 products or services.

585 (20) Personal data collected, processed, sold, or disclosed  
586 in relation to price, route, or service as those terms are used  
587 in the Airline Deregulation Act, 49 U.S.C. ss. 40101 et seq., by  
588 entities subject to that act, to the extent the provisions of  
589 this act are preempted by 49 U.S.C. s. 41713.

590 (21) Personal data shared between a manufacturer of a  
591 tangible product and authorized third-party distributors or  
592 vendors of the product, as long as such personal data is used  
593 solely for advertising, marketing, or servicing the product that  
594 is acquired directly through such manufacturer and such  
595 authorized third-party distributors or vendors. Such personal  
596 data may not be sold or shared unless otherwise authorized under  
597 this part.

598 Section 7. Section 501.705, Florida Statutes, is created to  
599 read:

600 501.705 Consumer rights.-

601 (1) A consumer is entitled to exercise the consumer rights  
602 authorized by this section at any time by submitting a request  
603 to a controller which specifies the consumer rights that the  
604 consumer wishes to exercise. With respect to the processing of  
605 personal data belonging to a known child, a parent or legal  
606 guardian of the child may exercise these rights on behalf of the  
607 child.

608 (2) A controller shall comply with an authenticated  
609 consumer request to exercise any of the following rights:

595-04199-23

2023262c2

610 (a) To confirm whether a controller is processing the  
611 consumer's personal data and to access the personal data.

612 (b) To correct inaccuracies in the consumer's personal  
613 data, taking into account the nature of the personal data and  
614 the purposes of the processing of the consumer's personal data.

615 (c) To delete any or all personal data provided by or  
616 obtained about the consumer.

617 (d) To obtain a copy of the consumer's personal data in a  
618 portable and, to the extent technically feasible, readily usable  
619 format if the data is available in a digital format.

620 (e) To opt out of the processing of the personal data for  
621 purposes of:

622 1. Targeted advertising;

623 2. The sale of personal data; or

624 3. Profiling in furtherance of a decision that produces a  
625 legal or similarly significant effect concerning a consumer.

626 (f) To opt out of the collection of sensitive data,  
627 including precise geolocation data, or the processing of such  
628 data.

629 (g) To opt out of the collection of personal data collected  
630 through the operation of a voice recognition feature.

631 Section 8. Section 501.706, Florida Statutes, is created to  
632 read:

633 501.706 Controller response to consumer requests.—

634 (1) Except as otherwise provided by this part, a controller  
635 shall comply with a request submitted by a consumer to exercise  
636 the consumer's rights pursuant to s. 501.705, as provided in  
637 this section.

638 (2) A controller shall respond to the consumer request

595-04199-23

2023262c2

639 without undue delay, which may not be later than 45 days after  
640 the date of receipt of the request. The controller may extend  
641 the response period once by an additional 15 days when  
642 reasonably necessary, taking into account the complexity and  
643 number of the consumer's requests, so long as the controller  
644 informs the consumer of the extension within the initial 45-day  
645 response period, together with the reason for the extension.

646 (3) If a controller cannot take action regarding the  
647 consumer's request, the controller must inform the consumer  
648 without undue delay, which may not be later than 45 days after  
649 the date of receipt of the request, of the justification for the  
650 inability to take action on the request and provide instructions  
651 on how to appeal the decision in accordance with s. 501.707. A  
652 controller is not required to comply with a consumer request  
653 submitted under s. 501.705 if the controller cannot authenticate  
654 the request. However, the controller must make a reasonable  
655 effort to request that the consumer provide additional  
656 information reasonably necessary to authenticate the consumer  
657 and the consumer's request. If a controller maintains a self-  
658 service mechanism to allow a consumer to correct certain  
659 personal data, the controller may deny the consumer's request  
660 and require the consumer to correct his or her own personal data  
661 through such mechanism.

662 (4) A controller must provide the consumer with notice  
663 within 60 days after the request is received that the controller  
664 has complied with the consumer's request as required in this  
665 section.

666 (5) A controller shall provide information or take action  
667 in response to a consumer request free of charge, at least twice

595-04199-23

2023262c2

668 annually per consumer. If a request from a consumer is  
669 manifestly unfounded, excessive, or repetitive, the controller  
670 may charge the consumer a reasonable fee to cover the  
671 administrative costs of complying with the request or may  
672 decline to act on the request. The controller bears the burden  
673 of demonstrating for purposes of this subsection that a request  
674 is manifestly unfounded, excessive, or repetitive.

675 (6) A controller who has obtained personal data about a  
676 consumer from a source other than the consumer is considered in  
677 compliance with a consumer's request to delete that personal  
678 data pursuant to s. 501.705(2)(c), by doing any of the  
679 following:

680 (a) Deleting the personal data, retaining a record of the  
681 deletion request and the minimum data necessary for the purpose  
682 of ensuring that the consumer's personal data remains deleted  
683 from the business's records, and not using the retained data for  
684 any other purpose under this part.

685 (b) Opting the consumer out of the processing of that  
686 personal data for any purpose other than a purpose exempt under  
687 this part.

688 Section 9. Section 501.707, Florida Statutes, is created to  
689 read:

690 501.707 Appeal.—

691 (1) A controller shall establish a process for a consumer  
692 to appeal the controller's refusal to take action on a request  
693 within a reasonable period of time after the consumer's receipt  
694 of the decision under s. 501.706(3).

695 (2) The appeal process must be conspicuously available and  
696 similar to the process for initiating action to exercise

595-04199-23

2023262c2

697 consumer rights by submitting a request under s. 501.705.

698 (3) A controller shall inform the consumer in writing of  
699 any action taken or not taken in response to an appeal under  
700 this section within 60 days after the date of receipt of the  
701 appeal, including a written explanation of the reason or reasons  
702 for the decision.

703 Section 10. Section 501.708, Florida Statutes, is created  
704 to read:

705 501.708 Waiver or limitation of consumer rights  
706 prohibited.—Any provision of a contract or agreement which  
707 waives or limits in any way a consumer right described by s.  
708 501.705, s. 501.706, or s. 501.707 is contrary to public policy  
709 and is void and unenforceable.

710 Section 11. Section 501.709, Florida Statutes, is created  
711 to read:

712 501.709 Submitting consumer requests.—

713 (1) A controller shall establish two or more methods to  
714 enable consumers to submit a request to exercise their consumer  
715 rights under this part. The methods must be secure, reliable,  
716 and clearly and conspicuously accessible. The methods must take  
717 all of the following into account:

718 (a) The ways in which consumers normally interact with the  
719 controller.

720 (b) The necessity for secure and reliable communications of  
721 these requests.

722 (c) The ability of the controller to authenticate the  
723 identity of the consumer making the request.

724 (2) A controller may not require a consumer to create a new  
725 account to exercise the consumer's rights under this part but

595-04199-23

2023262c2

726 may require a consumer to use an existing account.

727 (3) A controller shall provide a mechanism on its website  
728 for a consumer to submit a request for information required to  
729 be disclosed under this part. A controller that operates  
730 exclusively online and has a direct relationship with a consumer  
731 from whom the controller collects personal data may also provide  
732 an e-mail address for the submission of requests.

733 Section 12. Section 501.71, Florida Statutes, is created to  
734 read:

735 501.71 Controller duties.—

736 (1) A controller shall:

737 (a) Limit the collection of personal data to data that is  
738 adequate, relevant, and reasonably necessary in relation to the  
739 purposes for which it is processed, as disclosed to the  
740 consumer; and

741 (b) For purposes of protecting the confidentiality,  
742 integrity, and accessibility of personal data, establish,  
743 implement, and maintain reasonable administrative, technical,  
744 and physical data security practices appropriate to the volume  
745 and nature of the personal data at issue.

746 (2) A controller may not do any of the following:

747 (a) Except as otherwise provided by this part, process  
748 personal data for a purpose that is neither reasonably necessary  
749 nor compatible with the purpose for which the personal data is  
750 processed, as disclosed to the consumer, unless the controller  
751 obtains the consumer's consent.

752 (b) Process personal data in violation of state or federal  
753 laws that prohibit unlawful discrimination against consumers.

754 (c) Discriminate against a consumer for exercising any of

595-04199-23

2023262c2

755 the consumer rights contained in this part, including by denying  
756 goods or services, charging different prices or rates for goods  
757 or services, or providing a different level of quality of goods  
758 or services to the consumer. A controller may offer financial  
759 incentives, including payments to consumers as compensation, for  
760 processing of personal data if the consumer gives the controller  
761 prior consent that clearly describes the material terms of the  
762 financial incentive program and provided that such incentive  
763 practices are not unjust, unreasonable, coercive, or usurious in  
764 nature. The consent may be revoked by the consumer at any time.

765 (d) Process the sensitive data of a consumer without  
766 obtaining the consumer's consent, or, in the case of processing  
767 the sensitive data of a known child, without processing that  
768 data with the affirmative authorization for such processing by a  
769 known child who is between 13 and 18 years of age or in  
770 accordance with the Children's Online Privacy Protection Act, 15  
771 U.S.C. ss. 6501 et seq. for a known child under the age of 13.

772 (3) Paragraph (2)(c) may not be construed to require a  
773 controller to provide a product or service that requires the  
774 personal data of a consumer which the controller does not  
775 collect or maintain or to prohibit a controller from offering a  
776 different price, rate, level, quality, or selection of goods or  
777 services to a consumer, including offering goods or services for  
778 no fee, if the consumer has exercised the consumer's right to  
779 opt out under s. 501.705(2) or the offer is related to a  
780 consumer's voluntary participation in a bona fide loyalty,  
781 rewards, premium features, discounts, or club card program.

782 (4) A controller that operates a search engine shall make  
783 available, in an easily accessible location on the webpage which

595-04199-23

2023262c2

784 does not require a consumer to log in or register to read, an  
785 up-to-date plain language description of the main parameters  
786 that are individually or collectively the most significant in  
787 determining ranking and the relative importance of those main  
788 parameters, including the prioritization or deprioritization of  
789 political partisanship or political ideology in search results.  
790 Algorithms are not required to be disclosed nor is any other  
791 information that, with reasonable certainty, would enable  
792 deception of or harm to consumers through the manipulation of  
793 search results.

794 Section 13. Section 501.711, Florida Statutes, is created  
795 to read:

796 501.711 Privacy notices.—

797 (1) A controller shall provide consumers with a reasonably  
798 accessible and clear privacy notice, updated at least annually,  
799 that includes all of the following information:

800 (a) The categories of personal data processed by the  
801 controller, including, if applicable, any sensitive data  
802 processed by the controller.

803 (b) The purpose of processing personal data.

804 (c) How consumers may exercise their rights under s.  
805 501.705(2), including the process by which a consumer may appeal  
806 a controller's decision with regard to the consumer's request.

807 (d) If applicable, the categories of personal data that the  
808 controller shares with third parties.

809 (e) If applicable, the categories of third parties with  
810 whom the controller shares personal data.

811 (f) A description of the methods specified in s. 501.709,  
812 by which consumers can submit requests to exercise their

595-04199-23

2023262c2

813 consumer rights under this part.

814 (2) If a controller engages in the sale of personal data  
815 that is sensitive data, the controller must provide the  
816 following notice: "NOTICE: This website may sell your sensitive  
817 personal data." The notice must be posted in accordance with  
818 subsection (1).

819 (3) If a controller engages in the sale of personal data  
820 that is biometric data, the controller must provide the  
821 following notice: "NOTICE: This website may sell your biometric  
822 personal data." The notice must be posted in accordance with  
823 subsection (1).

824 (4) If a controller sells personal data to third parties or  
825 processes personal data for targeted advertising, the controller  
826 must clearly and conspicuously disclose that process and the  
827 manner in which a consumer may exercise the right to opt out of  
828 that process.

829 (5) A controller may not collect additional categories of  
830 personal information or use personal information collected for  
831 additional purposes without providing the consumer with notice  
832 consistent with this section.

833 Section 14. Section 501.712, Florida Statutes, is created  
834 to read:

835 501.712 Duties of processor.—

836 (1) A processor shall adhere to the instructions of a  
837 controller and shall assist the controller in meeting or  
838 complying with the controller's duties under this section and  
839 the requirements of this part, including the following:

840 (a) Assisting the controller in responding to consumer  
841 rights requests submitted pursuant to ss. 501.705 and 501.709,

595-04199-23

2023262c2

842 by using appropriate technical and organizational measures, as  
843 reasonably practicable, taking into account the nature of  
844 processing and the information available to the processor.

845 (b) Assisting the controller with regard to complying with  
846 the requirement relating to the security of processing personal  
847 data and to the notification of a breach of security of the  
848 processor's system under s. 501.171, taking into account the  
849 nature of processing and the information available to the  
850 processor.

851 (c) Providing necessary information to enable the  
852 controller to conduct and document data protection assessments  
853 under s. 501.713.

854 (2) A contract between a controller and a processor governs  
855 the processor's data processing procedures with respect to  
856 processing performed on behalf of the controller. The contract  
857 must include all of the following information:

858 (a) Clear instructions for processing data.

859 (b) The nature and purpose of processing.

860 (c) The type of data subject to processing.

861 (d) The duration of processing.

862 (e) The rights and obligations of both parties.

863 (f) A requirement that the processor:

864 1. Ensure that each person processing personal data is

865 subject to a duty of confidentiality with respect to the data;

866 2. At the controller's direction, delete or return all

867 personal data to the controller as requested after the provision

868 of the service is completed, unless retention of the personal

869 data is required by law;

870 3. Make available to the controller, upon reasonable

595-04199-23

2023262c2

871 request, all information in the processor's possession necessary  
872 to demonstrate the processor's compliance with this part;

873 4. Allow, and cooperate with, reasonable assessments by the  
874 controller or the controller's designated assessor; and

875 5. Engage any subcontractor pursuant to a written contract  
876 that requires the subcontractor to meet the requirements of the  
877 processor with respect to the personal data.

878 (3) Notwithstanding subparagraph (2)(f)4., a processor may  
879 arrange for a qualified and independent assessor to conduct an  
880 assessment of the processor's policies and technical and  
881 organizational measures in support of the requirements under  
882 this part using an appropriate and accepted control standard or  
883 framework and assessment procedure. The processor shall provide  
884 a report of the assessment to the controller upon request.

885 (4) This section may not be construed to relieve a  
886 controller or a processor from the liabilities imposed on the  
887 controller or processor by virtue of its role in the processing  
888 relationship as described by this part.

889 (5) A determination as to whether a person is acting as a  
890 controller or processor with respect to a specific processing of  
891 data is a fact-based determination that depends on the context  
892 in which personal data is to be processed. A processor that  
893 continues to adhere to a controller's instructions with respect  
894 to a specific processing of personal data remains in the role of  
895 a processor.

896 Section 15. Section 501.713, Florida Statutes, is created  
897 to read:

898 501.713 Data protection assessments.—

899 (1) A controller shall conduct and document a data

595-04199-23

2023262c2

900 protection assessment of each of the following processing  
901 activities involving personal data:

902 (a) The processing of personal data for purposes of  
903 targeted advertising.

904 (b) The sale of personal data.

905 (c) The processing of personal data for purposes of  
906 profiling if the profiling presents a reasonably foreseeable  
907 risk of:

908 1. Unfair or deceptive treatment of or unlawful disparate  
909 impact on consumers;

910 2. Financial, physical, or reputational injury to  
911 consumers;

912 3. A physical or other intrusion on the solitude or  
913 seclusion, or the private affairs or concerns, of consumers, if  
914 the intrusion would be offensive to a reasonable person; or

915 4. Other substantial injury to consumers.

916 (d) The processing of sensitive data.

917 (e) Any processing activities involving personal data which  
918 present a heightened risk of harm to consumers.

919 (2) A data protection assessment conducted under subsection  
920 (1) must do all of the following:

921 (a) Identify and weigh the direct or indirect benefits that  
922 may flow from the processing to the controller, the consumer,  
923 other stakeholders, and the public against the potential risks  
924 to the rights of the consumer associated with that processing,  
925 as mitigated by safeguards that can be employed by the  
926 controller to reduce such risks.

927 (b) Factor into the assessment:

928 1. The use of deidentified data;

595-04199-23

2023262c2

929       2. The reasonable expectations of consumers;  
930       3. The context of the processing; and  
931       4. The relationship between the controller and the consumer  
932 whose personal data will be processed.

933       (3) The disclosure of a data protection assessment in  
934 compliance with a request from the Attorney General pursuant to  
935 s. 501.72 does not constitute a waiver of attorney-client  
936 privilege or work product protection with respect to the  
937 assessment and any information contained in the assessment.

938       (4) A single data protection assessment may address a  
939 comparable set of processing operations which include similar  
940 activities.

941       (5) A data protection assessment conducted by a controller  
942 for the purpose of compliance with any other law or regulation  
943 may constitute compliance with the requirements of this section  
944 if the assessment has a reasonably comparable scope and effect.

945       (6) This section applies only to processing activities  
946 generated on or after July 1, 2023.

947       Section 16. Section 501.714, Florida Statutes, is created  
948 to read:

949       501.714 Deidentified data, pseudonymous data, and aggregate  
950 consumer information.-

951       (1) A controller in possession of deidentified data shall  
952 do all of the following:

953       (a) Take reasonable measures to ensure that the data cannot  
954 be associated with an individual.

955       (b) Maintain and use the data in deidentified form. A  
956 controller may not attempt to reidentify the data, except that  
957 the controller may attempt to reidentify the data solely for the

595-04199-23

2023262c2

958 purpose of determining whether its deidentification processes  
959 satisfy the requirements of this section.

960 (c) Contractually obligate any recipient of the  
961 deidentified data to comply with this part.

962 (d) Implement business processes to prevent the inadvertent  
963 release of deidentified data.

964 (2) This part may not be construed to require a controller  
965 or processor to do any of the following:

966 (a) Reidentify deidentified data or pseudonymous data.

967 (b) Maintain data in an identifiable form or obtain,  
968 retain, or access any data or technology for the purpose of  
969 allowing the controller or processor to associate a consumer  
970 request with personal data.

971 (c) Comply with an authenticated consumer rights request  
972 under s. 501.705 if the controller:

973 1. Is not reasonably capable of associating the request  
974 with the personal data or it would be unreasonably burdensome  
975 for the controller to associate the request with the personal  
976 data;

977 2. Does not use the personal data to recognize or respond  
978 to the specific consumer who is the subject of the personal data  
979 or associate the personal data with other personal data about  
980 the same specific consumer; and

981 3. Does not sell the personal data to a third party or  
982 otherwise voluntarily disclose the personal data to a third  
983 party other than a processor, except as otherwise authorized by  
984 this section.

985 (3) The consumer rights enumerated under s. 501.705(2), and  
986 controller duties imposed under s. 501.71, do not apply to

595-04199-23

2023262c2

987 pseudonymous data or aggregate consumer information in cases in  
988 which the controller is able to demonstrate that any information  
989 necessary to identify the consumer is kept separate and is  
990 subject to effective technical and organizational controls that  
991 prevent the controller from accessing the information.

992 (4) A controller that discloses pseudonymous data,  
993 deidentified data, or aggregate consumer information shall  
994 exercise reasonable oversight to monitor compliance with any  
995 contractual commitments to which the data or information is  
996 subject and shall take appropriate steps to address any breach  
997 of the contractual commitments.

998 Section 17. Section 501.715, Florida Statutes, is created  
999 to read:

1000 501.715 Requirements for sensitive data.-

1001 (1) A person who meets the requirements of s.  
1002 501.702(9)(a)1., (a)2., and (a)3. for the definition of a  
1003 controller may not engage in the sale of personal data that is  
1004 sensitive data without receiving prior consent from the consumer  
1005 or, if the sensitive data is of a known child, without  
1006 processing that data with the affirmative authorization for such  
1007 processing by a known child who is between 13 and 18 years of  
1008 age or in accordance with the Children's Online Privacy  
1009 Protection Act, 15 U.S.C. ss. 6501 et seq. for a known child  
1010 under the age of 13.

1011 (2) A person in subsection (1) who engages in the sale of  
1012 personal data that is sensitive data must provide the following  
1013 notice: "NOTICE: This website may sell your sensitive personal  
1014 data."

1015 (3) A person who violates this section is subject to the

595-04199-23

2023262c2

1016 penalty imposed under s. 501.72.

1017 Section 18. Section 501.716, Florida Statutes, is created  
1018 to read:

1019 501.716 Exemptions for certain uses of consumer personal  
1020 data.—

1021 (1) This part may not be construed to restrict a  
1022 controller's or processor's ability to do any of the following:

1023 (a) Comply with federal or state laws, rules, or  
1024 regulations.

1025 (b) Comply with a civil, criminal, or regulatory inquiry,  
1026 investigation, subpoena, or summons by federal, state, local, or  
1027 other governmental authorities.

1028 (c) Investigate, establish, exercise, prepare for, or  
1029 defend legal claims.

1030 (d) Provide a product or service specifically requested by  
1031 a consumer or the parent or guardian of a child, perform a  
1032 contract to which the consumer is a party, including fulfilling  
1033 the terms of a written warranty, or take steps at the request of  
1034 the consumer before entering into a contract.

1035 (e) Take immediate steps to protect an interest that is  
1036 essential for the life or physical safety of the consumer or of  
1037 another individual and in which the processing cannot be  
1038 manifestly based on another legal basis.

1039 (f) Prevent, detect, protect against, or respond to  
1040 security incidents, identity theft, fraud, harassment, malicious  
1041 or deceptive activities, or any illegal activity.

1042 (g) Preserve the integrity or security of systems or  
1043 investigate, report, or prosecute those responsible for breaches  
1044 of system security.

595-04199-23

2023262c2

1045 (h) Engage in public or peer-reviewed scientific or  
1046 statistical research in the public interest which adheres to all  
1047 other applicable ethics and privacy laws and is approved,  
1048 monitored, and governed by an institutional review board or  
1049 similar independent oversight entity that determines:

1050 1. Whether the deletion of the information is likely to  
1051 provide substantial benefits that do not exclusively accrue to  
1052 the controller;

1053 2. Whether the expected benefits of the research outweigh  
1054 the privacy risks; and

1055 3. Whether the controller has implemented reasonable  
1056 safeguards to mitigate privacy risks associated with research,  
1057 including any risks associated with reidentification.

1058 (i) Assist another controller, processor, or third party in  
1059 complying with the requirements of this part.

1060 (j) Disclose personal data disclosed when a consumer uses  
1061 or directs the controller to intentionally disclose information  
1062 to a third party or uses the controller to intentionally  
1063 interact with a third party. An intentional interaction occurs  
1064 when the consumer intends to interact with the third party, by  
1065 one or more deliberate interactions. Hovering over, muting,  
1066 pausing, or closing a given piece of content does not constitute  
1067 a consumer's intent to interact with a third party.

1068 (k) Transfer personal data to a third party as an asset  
1069 that is part of a merger, an acquisition, a bankruptcy, or other  
1070 transaction in which the third party assumes control of all or  
1071 part of the controller, provided that the information is used or  
1072 shared in a manner consistent with this part. If a third party  
1073 materially alters how it uses or shares the personal data of a

595-04199-23

2023262c2

1074 consumer in a manner that is materially inconsistent with the  
1075 commitments or promises made at the time of collection, it must  
1076 provide prior notice of the new or changed practice to the  
1077 consumer. The notice must be sufficiently prominent and robust  
1078 to ensure that consumers can easily exercise choices consistent  
1079 with this part.

1080 (2) This part may not be construed to prevent a controller  
1081 or processor from providing personal data concerning a consumer  
1082 to a person covered by an evidentiary privilege under the laws  
1083 of this state as part of a privileged communication.

1084 (3) This part may not be construed as imposing a  
1085 requirement on controllers and processors which adversely  
1086 affects the rights or freedoms of any person, including the  
1087 right of free speech.

1088 (4) This part may not be construed as requiring a  
1089 controller, processor, third party, or consumer to disclose a  
1090 trade secret.

1091 Section 19. Section 501.717, Florida Statutes, is created  
1092 to read:

1093 501.717 Collection, use, or retention of data for certain  
1094 purposes.—

1095 (1) The requirements imposed on controllers and processors  
1096 under this part may not restrict a controller's or processor's  
1097 ability to collect, use, or retain data to do any of the  
1098 following:

1099 (a) Conduct internal research to develop, improve, or  
1100 repair products, services, or technology.

1101 (b) Effect a product recall.

1102 (c) Identify and repair technical errors that impair

595-04199-23

2023262c2

1103 existing or intended functionality.

1104 (d) Perform internal operations that are:

1105 1. Reasonably aligned with the expectations of the  
1106 consumer;

1107 2. Reasonably anticipated based on the consumer's existing  
1108 relationship with the controller; or

1109 3. Otherwise compatible with processing data in furtherance  
1110 of the provision of a product or service specifically requested  
1111 by a consumer or the performance of a contract to which the  
1112 consumer is a party.

1113 (2) A requirement imposed on a controller or processor  
1114 under this part does not apply if compliance with the  
1115 requirement by the controller or processor, as applicable, would  
1116 violate an evidentiary privilege under the laws of this state.

1117 Section 20. Section 501.718, Florida Statutes, is created  
1118 to read:

1119 501.718 Disclosure of personal data to third-party  
1120 controller or processor.—

1121 (1) A controller or processor that discloses personal data  
1122 to a third-party controller or processor in compliance with the  
1123 requirements of this part does not violate this part if the  
1124 third-party controller or processor that receives and processes  
1125 that personal data violates this part, provided that, at the  
1126 time of the data's disclosure, the disclosing controller or  
1127 processor could not have reasonably known that the recipient  
1128 intended to commit a violation.

1129 (2) A third-party controller or processor receiving  
1130 personal data from a controller or processor in compliance with  
1131 the requirements of this part may not be held liable for

595-04199-23

2023262c2

1132 violations of this part committed by the controller or processor  
1133 from which the third-party controller or processor receives the  
1134 personal data.

1135 Section 21. Section 501.719, Florida Statutes, is created  
1136 to read:

1137 501.719 Processing of certain personal data by controller  
1138 or other person.—

1139 (1) Personal data processed by a controller pursuant to ss.  
1140 501.716, 501.717, and 501.718 may not be processed for any  
1141 purpose other than those specified in those sections. Personal  
1142 data processed by a controller pursuant to ss. 501.716, 501.717,  
1143 and 501.718 may be processed to the extent that the processing  
1144 of the data is:

1145 (a) Reasonably necessary and proportionate to the purposes  
1146 specified in ss. 501.716, 501.717, and 501.718; and

1147 (b) Adequate, relevant, and limited to what is necessary in  
1148 relation to the purposes specified in ss. 501.716, 501.717, and  
1149 501.718.

1150 (c) Done to assist another controller, processor, or third  
1151 party with any of the purposes specified in s. 501.716, s.  
1152 501.717, or s. 501.718.

1153 (2) A controller or processor that collects, uses, or  
1154 retains personal data for the purposes specified in s.  
1155 501.717(1) must take into account the nature and purpose of such  
1156 collection, use, or retention. Such personal data is subject to  
1157 reasonable administrative, technical, and physical measures to  
1158 protect its confidentiality, integrity, and accessibility and to  
1159 reduce reasonably foreseeable risks of harm to consumers  
1160 relating to the collection, use, or retention of personal data.

595-04199-23

2023262c2

1161 (3) A controller or processor shall adopt and implement a  
1162 retention schedule that prohibits the use or retention of  
1163 personal data not subject to an exemption by the controller or  
1164 processor after the satisfaction of the initial purpose for  
1165 which such information was collected or obtained, after the  
1166 expiration or termination of the contract pursuant to which the  
1167 information was collected or obtained, or 2 years after the  
1168 consumer's last interaction with the controller or processor.  
1169 This subsection does not apply to personal data reasonably used  
1170 or retained to do any of the following:

1171 (a) Provide a good or service requested by the consumer, or  
1172 reasonably anticipate the request of such good or service within  
1173 the context of a controller's ongoing business relationship with  
1174 the consumer.

1175 (b) Debug to identify and repair errors that impair  
1176 existing intended functionality.

1177 (c) Enable solely internal uses that are reasonably aligned  
1178 with the expectations of the consumer based on the consumer's  
1179 relationship with the controller or that are compatible with the  
1180 context in which the consumer provided the information.

1181 (4) A controller or processor that processes personal data  
1182 pursuant to ss. 501.716, 501.717, and 501.718 bears the burden  
1183 of demonstrating that the processing of the personal data  
1184 qualifies for the exemption and complies with the requirements  
1185 of this section.

1186 Section 22. Section 501.72, Florida Statutes, is created to  
1187 read:

1188 501.72 Enforcement and implementation by the Department of  
1189 Legal Affairs.—

595-04199-23

2023262c2

1190 (1) A violation of this part is an unfair and deceptive  
1191 trade practice actionable under part II of this chapter solely  
1192 by the Department of Legal Affairs. If the department has reason  
1193 to believe that a person is in violation of this section, the  
1194 department may, as the enforcing authority, bring an action  
1195 against such person for an unfair or deceptive act or practice.  
1196 For the purpose of bringing an action pursuant to this section,  
1197 ss. 501.211 and 501.212 do not apply. In addition to other  
1198 remedies under part II of this chapter, the department may  
1199 collect a civil penalty of up to \$50,000 per violation. Civil  
1200 penalties may be tripled for any of the following violations:

1201 (a) A violation involving a Florida consumer who is a known  
1202 child. A controller that willfully disregards the consumer's age  
1203 is deemed to have actual knowledge of the consumer's age.

1204 (b) Failure to delete or correct the consumer's personal  
1205 data pursuant to this section after receiving an authenticated  
1206 consumer request or directions from a controller to delete or  
1207 correct such personal data, unless an exception to the  
1208 requirements to delete or correct such personal data under this  
1209 section applies.

1210 (c) Continuing to sell or share the consumer's personal  
1211 data after the consumer chooses to opt out under this part.

1212 (2) After the department has notified a person in writing  
1213 of an alleged violation, the department may grant a 45-day  
1214 period to cure the alleged violation and issue a letter of  
1215 guidance. The 45-day cure period does not apply to an alleged  
1216 violation of paragraph (1)(a). The department may consider the  
1217 number and frequency of violations, the substantial likelihood  
1218 of injury to the public, and the safety of persons or property

595-04199-23

2023262c2

1219 in determining whether to grant 45 calendar days to cure and the  
1220 issuance of a letter of guidance. If the alleged violation is  
1221 cured to the satisfaction of the department and proof of such  
1222 cure is provided to the department, the department may not bring  
1223 an action for the alleged violation but in its discretion may  
1224 issue a letter of guidance that indicates that the person will  
1225 not be offered a 45-day cure period for any future violations.  
1226 If the person fails to cure the alleged violation within 45  
1227 calendar days, the department may bring an action against such  
1228 person for the alleged violation.

1229 (3) Any action brought by the department may be brought  
1230 only on behalf of a Florida consumer.

1231 (4) By February 1 of each year, the department shall make a  
1232 report publicly available on the department's website describing  
1233 any actions taken by the department to enforce this section. The  
1234 report must include statistics and relevant information  
1235 detailing all of the following:

1236 (a) The number of complaints received and the categories or  
1237 types of violations alleged by the complainant.

1238 (b) The number and type of enforcement actions taken and  
1239 the outcomes of such actions, including the amount of penalties  
1240 issued and collected.

1241 (c) The number of complaints resolved without the need for  
1242 litigation.

1243 (d) For the report due February 1, 2024, the status of the  
1244 development and implementation of rules to implement this  
1245 section.

1246 (5) The department shall adopt rules to implement this  
1247 section, including standards for authenticated consumer

595-04199-23

2023262c2

1248 requests, enforcement, data security, and authorized persons who  
1249 may act on a consumer's behalf.

1250 (6) The department may collaborate and cooperate with other  
1251 enforcement authorities of the Federal Government or other state  
1252 governments concerning consumer data privacy issues and consumer  
1253 data privacy investigations if such enforcement authorities have  
1254 restrictions governing confidentiality at least as stringent as  
1255 the restrictions provided in this section.

1256 (7) Liability for a tort, contract claim, or consumer  
1257 protection claim unrelated to an action brought under this  
1258 section does not arise solely from the failure of a person to  
1259 comply with this part.

1260 (8) This part does not establish a private cause of action.

1261 (9) The department may employ or use the legal services of  
1262 outside counsel and the investigative services of outside  
1263 personnel to fulfill the obligations of this section.

1264 (10) For purposes of bringing an action pursuant to this  
1265 section, any person who meets the definition of controller as  
1266 defined in this part who collects, shares, or sells the personal  
1267 data of Florida consumers is considered to be engaged in both  
1268 substantial and not isolated activities within this state and  
1269 operating, conducting, engaging in, or carrying on a business,  
1270 and doing business in this state, and is, therefore, subject to  
1271 the jurisdiction of the courts of this state.

1272 Section 23. Section 501.721, Florida Statutes, is created  
1273 to read:

1274 501.721 Preemption.—This part is a matter of statewide  
1275 concern and supersedes all rules, regulations, codes,  
1276 ordinances, and other laws adopted by a city, county, city and

595-04199-23

2023262c2

1277 county, municipality, or local agency regarding the collection,  
1278 processing, sharing, or sale of consumer personal data by a  
1279 controller or processor. The regulation of the collection,  
1280 processing, sharing, or sale of consumer personal data by a  
1281 controller or processor is preempted to the state.

1282 Section 24. Paragraph (g) of subsection (1) of section  
1283 501.171, Florida Statutes, is amended to read:

1284 501.171 Security of confidential personal information.—

1285 (1) DEFINITIONS.—As used in this section, the term:

1286 (g)1. "Personal information" means either of the following:

1287 a. An individual's first name or first initial and last  
1288 name in combination with any one or more of the following data  
1289 elements for that individual:

1290 (I) A social security number;

1291 (II) A driver license or identification card number,  
1292 passport number, military identification number, or other  
1293 similar number issued on a government document used to verify  
1294 identity;

1295 (III) A financial account number or credit or debit card  
1296 number, in combination with any required security code, access  
1297 code, or password that is necessary to permit access to an  
1298 individual's financial account;

1299 (IV) Any information regarding an individual's medical  
1300 history, mental or physical condition, or medical treatment or  
1301 diagnosis by a health care professional; ~~or~~

1302 (V) An individual's health insurance policy number or  
1303 subscriber identification number and any unique identifier used  
1304 by a health insurer to identify the individual;

1305 (VI) An individual's biometric data as defined in s.

595-04199-23

2023262c2

1306 501.702; or1307 (VII) Any information regarding an individual's  
1308 geolocation.1309 b. A user name or e-mail address, in combination with a  
1310 password or security question and answer that would permit  
1311 access to an online account.1312 2. The term does not include information about an  
1313 individual that has been made publicly available by a federal,  
1314 state, or local governmental entity. The term also does not  
1315 include information that is encrypted, secured, or modified by  
1316 any other method or technology that removes elements that  
1317 personally identify an individual or that otherwise renders the  
1318 information unusable.1319 Section 25. Subsection (1) of section 16.53, Florida  
1320 Statutes, is amended, and subsection (8) is added to that  
1321 section, to read:

1322 16.53 Legal Affairs Revolving Trust Fund.—

1323 (1) There is created in the State Treasury the Legal  
1324 Affairs Revolving Trust Fund, from which the Legislature may  
1325 appropriate funds for the purpose of funding investigation,  
1326 prosecution, and enforcement by the Attorney General of the  
1327 provisions of the Racketeer Influenced and Corrupt Organization  
1328 Act, the Florida Deceptive and Unfair Trade Practices Act, the  
1329 Florida False Claims Act, ~~or~~ state or federal antitrust laws, or  
1330 part V of chapter 501.1331 (8) All moneys recovered by the Attorney General for  
1332 attorney fees, costs, and penalties in an action for a violation  
1333 of part V of chapter 501 must be deposited in the trust fund.

1334 Section 26. This act shall take effect July 1, 2023.