



December 17, 2024

Representative Helena Scott  
Chair  
Committee on Energy, Communications, and Technology  
Room 519, House Office Building  
Lansing, MI 48933

Re: *Michigan Personal Data Privacy Act (S.B. 659) - SUPPORT*

Dear Chair Scott,

Consumer Reports<sup>1</sup> sincerely thanks you for your consideration of advancing consumer privacy in Michigan. S.B. 659 would extend to Michigan consumers important new protections, including meaningful data minimization restrictions, heightened standards for the processing of sensitive data, and strong civil rights protections. The bill also creates baseline consumer privacy rights, including the right to know the information companies have collected about them, the right to access, correct, and delete that information, as well as the ability to require businesses to honor universal opt-out signals and authorized agent requests to opt out of sales, targeted advertising, and profiling.

Consumers currently possess very limited power to protect their personal information in the digital economy, while online businesses operate with virtually no limitations as to how they process that information (so long as they note their behavior somewhere in their privacy policy). As a result, consumers are constantly tracked online and their behaviors are often combined with offline activities to provide detailed insights into their most personal characteristics, including health conditions, political affiliations, and sexual preferences. This information is sold as a matter of course, is used to deliver targeted advertising, facilitates differential pricing, and enables opaque algorithmic scoring—all of which erode individuals' basic expectation of privacy and can lead to disparate outcomes along racial and ethnic lines.

This bill's data minimization provision (Section 19(e)), which is aligned with Maryland's recently passed privacy legislation, would go a long way toward mitigating many of these types of harms. While we prefer privacy legislation that limits companies' collection, use, *and* disclosure of data

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<sup>1</sup> Founded in 1936, Consumer Reports (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

to what is reasonably necessary to provide the service requested by the consumer (the bill only currently applies this standard to data collection, while allowing a much looser standard for processing activities), simply reigning in systemic over-collection of consumers' personal information alone would help eliminate common practices that have contributed to, among other things, the persistent drip of massive data breaches.

Importantly, S.B. 659 also seeks to reduce unwanted secondary processing of data by creating a framework for universal opt-out through universal controls. Privacy legislation with universal opt-outs empowers consumers by making it easier to set their preferences relating to secondary processing, like sales or targeted advertising, eliminating the need for them to manage the otherwise untenably complicated ecosystem of privacy notices, opt-out requests, and verification.<sup>2</sup> The goal of universal opt-out is to create an environment where consumers can set their preference once and businesses will honor their choices as if they contacted each business individually.

Aside from this bill's thoughtful approach to minimization and opt-outs, we also appreciate that it includes the following elements:

- *Special Protections for Sensitive Data.* The bill builds on the underlying data minimization standard by requiring that the collection of any *sensitive* information be "strictly necessary" to provide the service requested by the consumer and by banning the sale of sensitive data outright. This is a critical protection to reduce the outward flow of data about our most personal characteristics, including about our race, religious beliefs, health, and data from children (targeted advertising to teens is also separately banned), appropriately shifting the burden of privacy protection away from consumers themselves and toward companies that otherwise have every incentive to exploit consumer data for their own benefit. The less sensitive information companies collect and sell about us in the first place, the less that can be used against us and the less that can be exposed in a data breach.
- *Strong civil rights protections.* This bill appropriately addresses a key harm observed in the digital marketplace today: the disparate impact that can occur through processing of personal data for the purpose of creating granularized profiles of individuals based off of data both collected and inferred about them. The bill ensures that a business' processing of personal data cannot lead to discrimination against individuals or otherwise make opportunity or public accommodation unavailable on the basis of protected classes. A number of privacy bills introduced federally in recent years have included similar civil rights protections, including the American Data Privacy and Protection Act which overwhelmingly passed the House Energy and Commerce Committee on a 53-2

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<sup>2</sup> Aleecia M. McDonanld and Lorrie Faith Cranor, "The Cost of Reading Privacy Policies," *I/S: A Journal of Law and Policy for the Information Society*, vol. 4, no. 3 (2008), 543-568.  
[https://kb.osu.edu/bitstream/handle/1811/72839/ISJLP\\_V4N3\\_543.pdf?sequence=1&isAllowed=y](https://kb.osu.edu/bitstream/handle/1811/72839/ISJLP_V4N3_543.pdf?sequence=1&isAllowed=y)

bipartisan vote.<sup>3</sup> Consumer Reports and EPIC's model state privacy legislation also contains similar language prohibiting the use of personal information to discriminate against consumers.<sup>4</sup>

Thank you again for your consideration, and for your work on this legislation. We look forward to working with you to ensure that Michigan residents have the strongest possible privacy protections.

Sincerely,  
Matt Schwartz  
Policy Analyst

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<sup>3</sup> See Section 2076, Amendment in the Nature of a Substitute to the American Data Privacy and Protection Act,

<https://docs.house.gov/meetings/IF/IF00/20220720/115041/BILLS-117-8152-P000034-Amdt-1.pdf>

<sup>4</sup> Consumer Reports and EPIC, State Data Privacy Act, Section 4(f), (Sep. 2024)

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