

59 "Nonprofit organization" means any corporation organized under the Virginia Nonstock Corporation Act
60 (§ 13.1-801 et seq.) or any organization exempt from taxation under § 501(c)(3), 501(c)(6), or 501(c)(12) of
61 the Internal Revenue Code, any political organization, any organization exempt from taxation under §
62 501(c)(4) of the Internal Revenue Code that is identified in § 52-41, and any subsidiary or affiliate of entities
63 organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

64 "Online service, product, or feature" means any service, product, or feature that is provided online.
65 "Online service, product, or feature" does not include telecommunications service, as defined in 47 U.S.C. §
66 153, broadband Internet access service, as defined in 47 C.F.R. § 54.400, or delivery or use of a physical
67 product.

68 "Parent" means a parent or legal guardian of a child or minor.

69 "Personal data" means any information that is linked or reasonably linkable to an identified or identifiable
70 natural person. "Personal data" does not include de-identified data or publicly available information.

71 "Political organization" means a party, committee, association, fund, or other organization, whether or not
72 incorporated, organized and operated primarily for the purpose of influencing or attempting to influence the
73 selection, nomination, election, or appointment of any individual to any federal, state, or local public office or
74 office in a political organization or the election of a presidential/vice-presidential elector, whether or not such
75 individual or elector is selected, nominated, elected, or appointed.

76 "Precise geolocation data" means information derived from technology, including ~~but not limited to~~ global
77 positioning system level latitude and longitude coordinates or other mechanisms, that directly identifies the
78 specific location of a natural person with precision and accuracy within a radius of 1,750 feet. "Precise
79 geolocation data" does not include the content of communications or any data generated by or connected to
80 advanced utility metering infrastructure systems or equipment for use by a utility.

81 "Process" or "processing" means any operation or set of operations performed, whether by manual or
82 automated means, on personal data or on sets of personal data, such as the collection, use, storage, disclosure,
83 analysis, deletion, or modification of personal data.

84 "Processor" means a natural or legal entity that processes personal data on behalf of a controller.

85 "Profiling" means any form of automated processing performed on personal data to evaluate, analyze, or
86 predict personal aspects related to an identified or identifiable natural person's economic situation, health,
87 personal preferences, interests, reliability, behavior, location, or movements.

88 "Protected health information" means the same as the term is established by HIPAA.

89 "Pseudonymous data" means personal data that cannot be attributed to a specific natural person without
90 the use of additional information, provided that such additional information is kept separately and is subject
91 to appropriate technical and organizational measures to ensure that the personal data is not attributed to an
92 identified or identifiable natural person.

93 "Publicly available information" means information that is lawfully made available through federal, state,
94 or local government records, or information that a business has a reasonable basis to believe is lawfully made
95 available to the general public through widely distributed media, by the consumer, or by a person to whom
96 the consumer has disclosed the information, unless the consumer has restricted the information to a specific
97 audience.

98 "Sale of personal data" means the exchange of personal data for monetary consideration by the controller
99 to a third party. "Sale of personal data" does not include:

100 1. The disclosure of personal data to a processor that processes the personal data on behalf of the
101 controller;

102 2. The disclosure of personal data to a third party for purposes of providing a product or service requested
103 by the consumer;

104 3. The disclosure or transfer of personal data to an affiliate of the controller;

105 4. The disclosure of information that the consumer (i) intentionally made available to the general public
106 via a channel of mass media and (ii) did not restrict to a specific audience; or

107 5. The disclosure or transfer of personal data to a third party as an asset that is part of a merger,
108 acquisition, bankruptcy, or other transaction in which the third party assumes control of all or part of the
109 controller's assets.

110 "Sensitive data" means a category of personal data that includes:

111 1. Personal data revealing racial or ethnic origin, religious beliefs, mental or physical health diagnosis,
112 sexual orientation, or citizenship or immigration status;

113 2. The processing of genetic or biometric data for the purpose of uniquely identifying a natural person;

114 3. The personal data collected from a known child; or

115 4. Precise geolocation data.

116 "Social media platform" means a public or semipublic Internet-based service or application that has users
117 in the Commonwealth and that meets the following criteria:

118 1. Connects users in order to allow users to interact socially with each other within such service or
119 application. No service or application that exclusively provides email or direct messaging services shall be
120 considered to meet this criterion on the basis of that function alone; and

121 2. Allows users to do all of the following:

122 a. Construct a public or semipublic profile for purposes of signing into and using such service or
123 application;

124 b. Populate a public list of other users with whom such user shares a social connection within such service
125 or application; and

126 c. Create or post content viewable by other users, including content on message boards, in chat rooms, or
127 through a landing page or main feed that presents the user with content generated by other users. No service
128 or application that consists primarily of news, sports, entertainment, ecommerce, or content preselected by
129 the provider and not generated by users, and for which any chat, comments, or interactive functionality is
130 incidental to, directly related to, or dependent on the provision of such content, or that is for interactive
131 gaming, shall be considered to meet this criterion on the basis of that function alone.

132 "State agency" means the same as that term is defined in § 2.2-307.

133 "Targeted advertising" means displaying advertisements to a consumer where the advertisement is
134 selected based on personal data obtained from that consumer's activities over time and across nonaffiliated
135 websites or online applications to predict such consumer's preferences or interests. "Targeted advertising"
136 does not include:

137 1. Advertisements based on activities within a controller's own websites or online applications;

138 2. Advertisements based on the context of a consumer's current search query, visit to a website, or online
139 application;

140 3. Advertisements directed to a consumer in response to the consumer's request for information or
141 feedback; or

142 4. Processing personal data processed solely for measuring or reporting advertising performance, reach, or
143 frequency.

144 "Third party" means a natural or legal person, public authority, agency, or body other than the consumer,
145 controller, processor, or an affiliate of the processor or the controller.

146 "User" means a person not acting as an agent of a controller or processor.

147 **§ 59.1-576. Scope; exemptions.**

148 A. This chapter applies to persons that conduct business in the Commonwealth or produce products or
149 services that are targeted to residents of the Commonwealth and that (i) during a calendar year, control or
150 process personal data of at least 100,000 consumers or (ii) control or process personal data of at least 25,000
151 consumers and derive over 50 percent of gross revenue from the sale of personal data.

152 B. This chapter shall not apply to any (i) body, authority, board, bureau, commission, district, or agency of
153 the Commonwealth or of any political subdivision of the Commonwealth; (ii) financial institution or data
154 subject to Title V of the federal Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.); (iii) covered entity or
155 business associate governed by the privacy, security, and breach notification rules issued by the U.S.
156 Department of Health and Human Services, 45 C.F.R. Parts 160 and 164 established pursuant to HIPAA, and
157 the Health Information Technology for Economic and Clinical Health Act (P.L. 111-5); (iv) nonprofit
158 organization; or (v) institution of higher education.

159 C. The following information and data is exempt from this chapter:

160 1. Protected health information under HIPAA;

161 2. Health records for purposes of Title 32.1;

162 3. Patient identifying information for purposes of 42 U.S.C. § 290dd-2;

163 4. Identifiable private information for purposes of the federal policy for the protection of human subjects
164 under 45 C.F.R. Part 46; identifiable private information that is otherwise information collected as part of
165 human subjects research pursuant to the good clinical practice guidelines issued by The International Council
166 for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; the protection of human
167 subjects under 21 C.F.R. Parts 6, 50, and 56, or personal data used or shared in research conducted in
168 accordance with the requirements set forth in this chapter, or other research conducted in accordance with
169 applicable law;

170 5. Information and documents created for purposes of the federal Health Care Quality Improvement Act
171 of 1986 (42 U.S.C. § 11101 et seq.);

172 6. Patient safety work product for purposes of the federal Patient Safety and Quality Improvement Act (42
173 U.S.C. § 299b-21 et seq.);

174 7. Information derived from any of the health care-related information listed in this subsection that is de-
175 identified in accordance with the requirements for de-identification pursuant to HIPAA;

176 8. Information originating from, and intermingled to be indistinguishable with, or information treated in
177 the same manner as information exempt under this subsection that is maintained by a covered entity or
178 business associate as defined by HIPAA or a program or a qualified service organization as defined by 42
179 U.S.C. § 290dd-2;

180 9. Information used only for public health activities and purposes as authorized by HIPAA;

181 10. The collection, maintenance, disclosure, sale, communication, or use of any personal information
182 bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation,

183 personal characteristics, or mode of living by a consumer reporting agency or furnisher that provides
184 information for use in a consumer report, and by a user of a consumer report, but only to the extent that such
185 activity is regulated by and authorized under the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.);

186 11. Personal data collected, processed, sold, or disclosed in compliance with the federal Driver's Privacy
187 Protection Act of 1994 (18 U.S.C. § 2721 et seq.);

188 12. Personal data regulated by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g
189 et seq.);

190 13. Personal data collected, processed, sold, or disclosed in compliance with the federal Farm Credit Act
191 (12 U.S.C. § 2001 et seq.); and

192 14. Data processed or maintained (i) in the course of an individual applying to, employed by, or acting as
193 an agent or independent contractor of a controller, processor, or third party, to the extent that the data is
194 collected and used within the context of that role; (ii) as the emergency contact information of an individual
195 under this chapter used for emergency contact purposes; or (iii) that is necessary to retain to administer
196 benefits for another individual relating to the individual under clause (i) and used for the purposes of
197 administering those benefits.

198 ~~D. Controllers and processors that comply with the verifiable parental consent requirements of the
199 Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.) shall be deemed compliant with any
200 obligation to obtain parental consent under this chapter.~~

201 **§ 59.1-577. Personal data rights; consumers.**

202 A. A consumer may invoke the consumer rights authorized pursuant to this subsection at any time by
203 submitting a request to a controller specifying the consumer rights the consumer wishes to invoke. A known
204 child's minor's parent or legal guardian may invoke such consumer rights on behalf of the child minor
205 regarding processing personal data belonging to the known child minor. A controller shall comply with an
206 authenticated consumer request to exercise the right to:

207 1. ~~To eonfirm~~ *Confirm* whether or not a controller is processing the consumer's personal data and to
208 access such personal data;

209 2. ~~To eorrect~~ *Correct* inaccuracies in the consumer's personal data, taking into account the nature of the
210 personal data and the purposes of the processing of the consumer's personal data;

211 3. ~~To delete~~ *Delete* personal data provided by or obtained about the consumer;

212 4. ~~To obtain~~ *Obtain* a copy of the consumer's personal data that the consumer previously provided to the
213 controller in a portable and, to the extent technically feasible, readily usable format that allows the consumer
214 to transmit the data to another controller without hindrance, where the processing is carried out by automated
215 means; and

216 5. ~~To opt~~ *Opt* out of the processing of the personal data for purposes of (i) targeted advertising, (ii) the
217 sale of personal data, or (iii) profiling in furtherance of decisions that produce legal or similarly significant
218 effects concerning the consumer.

219 B. *A parent of a minor may invoke additional consumer rights on behalf of the minor pursuant to this
220 subsection at any time by submitting a request to a controller of an online service, product, or feature
221 specifying the consumer rights the parent wishes to invoke. Such controller shall comply with an
222 authenticated consumer request to exercise the right of a parent to obtain a copy of all data in the
223 controller's possession associated with the minor, organized by type of data and the purpose for which the
224 controller processed each type of data. Such copy shall include, as applicable, (i) the name of each third
225 party to which the controller disclosed such data; (ii) each source other than the minor from which the
226 controller obtained such data; (iii) the length of time for which the controller will retain the data associated
227 with the minor; (iv) any index or score assigned to the minor as a result of the data, including whether the
228 controller created the index or score and, if not, who created the index or score; and (v) the manner in which
229 the controller uses such index or score. Such controller may require a minor's parent to confirm such
230 parent's identity using a method acceptable under subsection B of § 59.1-577.2.*

231 C. Except as otherwise provided in this chapter, a controller shall comply with a request by a consumer to
232 exercise the consumer rights authorized pursuant to subsection A by this section as follows:

233 1. A controller shall respond to the consumer without undue delay, but in all cases within 45 days of
234 receipt of the request submitted pursuant to the methods described in subsection A this section. The response
235 period may be extended once by 45 additional days when reasonably necessary, taking into account the
236 complexity and number of the consumer's requests, so long as the controller informs the consumer of any
237 such extension within the initial 45-day response period, together with the reason for the extension.

238 2. If a controller declines to take action regarding the consumer's request, the controller shall inform the
239 consumer without undue delay, but in all cases and at the latest within 45 days of receipt of the request, of the
240 justification for declining to take action and instructions for how to appeal the decision pursuant to subsection
241 E.

242 3. Information provided in response to a consumer request shall be provided by a controller free of charge,
243 up to twice annually per consumer. If requests from a consumer are manifestly unfounded, excessive, or
244 repetitive, the controller may charge the consumer a reasonable fee to cover the administrative costs of

245 complying with the request or decline to act on the request. The controller bears the burden of demonstrating
 246 the manifestly unfounded, excessive, or repetitive nature of the request.

247 4. If a controller is unable to authenticate the request using commercially reasonable efforts, the controller
 248 shall not be required to comply with a request to initiate an action under ~~subsection A~~ *this section* and may
 249 request that the consumer provide additional information reasonably necessary to authenticate the consumer
 250 and the consumer's request.

251 5. A controller that has obtained personal data about a consumer from a source other than the consumer
 252 shall be deemed in compliance with a consumer's request to delete such data pursuant to subdivision A 3 by
 253 either (i) retaining a record of the deletion request and the minimum data necessary for the purpose of
 254 ensuring the consumer's personal data remains deleted from the business's records and not using such retained
 255 data for any other purpose pursuant to the provisions of this chapter or (ii) opting the consumer out of the
 256 processing of such personal data for any purpose except for those exempted pursuant to the provisions of this
 257 chapter.

258 C. D. A controller shall establish a process for a consumer to appeal the controller's refusal to take action
 259 on a request within a reasonable period of time after the consumer's receipt of the decision pursuant to
 260 subdivision B C 2. The appeal process shall be conspicuously available and similar to the process for
 261 submitting requests to initiate action pursuant to subsection A. Within 60 days of receipt of an appeal, a
 262 controller shall inform the consumer in writing of any action taken or not taken in response to the appeal,
 263 including a written explanation of the reasons for the decisions. If the appeal is denied, the controller shall
 264 also provide the consumer with an online mechanism, if available, or other method through which the
 265 consumer may contact the Attorney General to submit a complaint.

266 **§ 59.1-577.1. Social media platforms; responsibilities and prohibitions related to minors.**

267 A. For purposes of this section, "minor" means any natural person younger than 16 years of age.

268 B. Any controller or processor that operates a social media platform shall (i) use commercially reasonable
 269 methods, such as a neutral age screen mechanism, to determine whether a user is a minor and (ii) limit a
 270 minor's use of such social media platform to one hour per day, per service or application, and allow a parent
 271 to give verifiable parental consent to increase or decrease the daily time limit. *Controllers and processors*
 272 *that obtain verified consent pursuant to subsection B of § 59.1-577.2 shall be deemed compliant with any*
 273 *obligation to obtain parental consent under this section.*

274 C. B. Information collected for the purpose of determining a user's age shall not be used for any purpose
 275 other than age determination and provision of age-appropriate experiences. For purposes of this section, any
 276 controller or processor that operates a social media platform shall treat a user as a minor if the user's device
 277 communicates or signals that the user is or shall be treated as a minor, including through a browser plug-in or
 278 privacy setting, device setting, or other mechanism.

279 D. Nothing in this section shall be construed as requiring any controller or processor that operates a social
 280 media platform to give a parent who grants verifiable parental consent pursuant to subsection B any
 281 additional or special access to or control over the data or accounts of the minor.

282 E. C. No controller or processor that operates a social media platform shall withhold, degrade, lower the
 283 quality of, or increase the price of any online service, product, or feature to a user due to the controller or
 284 processor not being permitted to provide use of such social media platform beyond the one hour per day, per
 285 service or application, daily time limit under subsection B A. However, nothing in this section shall be
 286 construed as (i) requiring a social media platform to provide an online service, product, or feature that
 287 requires the personal information of a known minor or (ii) prohibiting a social media platform from offering a
 288 different price, rate, level, quality, or selection of goods or services to a known minor, including offering
 289 goods or services for no fee, if such behavior is reasonably related to the exercise of rights pursuant to or
 290 compliance with the requirements of this chapter.

291 **§ 59.1-577.2. Prohibition on agreements with minors; exemption for parental consent.**

292 A. Except as provided by this section, no controller of an online service, product, or feature shall enter
 293 into a terms of service agreement, a user agreement, or an agreement to create an account for an online
 294 service, product, or feature if such agreement is with a known minor.

295 B. A controller of an online service, product, or feature may enter into a terms of service agreement, a
 296 user agreement, or an agreement to create an account for an online service, product, or feature with a known
 297 minor if such minor's parent provides verified consent as provided by this subsection. Such controller may
 298 obtain verified consent by any of the following methods:

- 299 1. Providing a form for the minor's parent to sign and return to the controller by common carrier,
 300 facsimile, or electronic scan;
- 301 2. Providing a toll-free telephone number for the minor's parent to call to consent;
- 302 3. Coordinating a call with the minor's parent over videoconferencing technology;
- 303 4. Collecting information related to the minor's parent's government-issued identification and deleting
 304 such information after confirming the identity of the parent;
- 305 5. Allowing the minor's parent to provide consent by responding to an email and taking additional steps to
 306 verify the parent's identity; and

307 6. Any other commercially reasonable method of obtaining consent.

308 C. At the time of obtaining verified consent from a parent on behalf of a minor for entering into a terms of
309 service agreement, a user agreement, or an agreement to create an account for an online service, product, or
310 feature, a controller of an online service, product, or feature shall provide the parent with the ability to:

311 1. Enable the highest privacy setting offered by the controller;

312 2. Prevent the controller from collecting any data associated with the minor that is not necessary to
313 provide the online service, product, or feature;

314 3. Prevent the controller from processing any data associated with the minor in a manner that is not
315 related to the purpose for which the data was collected;

316 4. Prevent the controller from sharing, disclosing, or transferring data associated with the minor in
317 exchange for monetary or other valuable consideration;

318 5. Prevent the collection of precise geolocation data by the controller;

319 6. Prevent the display of targeted advertising for the minor; or

320 7. Prevent the minor from making purchases or financial transactions.

321 **§ 59.1-577.3. Duties owed to minors; online services, products, features.**

322 A. A controller of an online service, product, or feature that allows advertisers to advertise to known
323 minors on the online service, product, or feature shall disclose in a clear and accessible manner at the time
324 the advertisement is displayed:

325 1. The name of the product, service, or brand;

326 2. The subject matter of each advertisement or marketing material;

327 3. If the controller or advertiser targets advertisements to known minors, the reason why the
328 advertisement has been targeted to minors;

329 4. The way in which data associated with a known minor's use of the online service, product, or feature
330 leads to the advertisement targeted to the minor; and

331 5. Whether certain media are advertisements.

332 B. A controller of an online service, product, or feature that uses algorithms to automate the suggestion,
333 promotion, or ranking of information to known minors on the online service, product, or feature shall:

334 1. Ensure that the algorithm does not interfere with the controller's duties under subsection C; and

335 2. Disclose in the controller's terms of service, in a clear and accessible manner, an overview of the
336 manner in which (i) the online service, product, or feature uses algorithms to provide information to known
337 minors and (ii) those algorithms use data associated with the minor.

338 C. In relation to a known minor's use of an online service, product, or feature, a controller of an online
339 service, product, or feature shall exercise reasonable care to prevent:

340 1. Self-harm, suicide, eating disorders, and other similar behaviors;

341 2. Substance abuse and patterns of use that indicate addiction;

342 3. Bullying and harassment;

343 4. Sexual exploitation, including enticement, grooming, trafficking, abuse, and child pornography;

344 5. Advertisements for products or services that are unlawful for a minor, including illegal drugs, tobacco,
345 gambling, pornography, and alcohol; and

346 6. Predatory, unfair, or deceptive marketing practices.

347 **2. That the provisions of this act shall become effective on January 1, 2027.**