



May 23, 2024

Governor Phil Scott  
109 State Street, Pavilion  
Montpelier, VT 05609

Re: Sign H. 121, the Vermont Data Privacy Act

Dear Governor Scott,

The undersigned organizations and individuals urge you to sign H. 121, the Vermont Data Privacy Act, which contains some of the strongest state-level privacy rules in the nation. Signing the Vermont Data Privacy Act would extend to Vermont consumers critical new privacy protections, including default limits on businesses' collection of information through a data minimization standard, a ban on the sale of sensitive data, strong civil rights protections, and the right for individuals to seek redress in courts when large businesses violate the law. H. 121 received wide-ranging support from Vermont legislators of all political parties, demonstrating how vital this legislation is to protect Vermonters' privacy.

These protections are far overdue; the current digital landscape produces, with frightening regularity, concrete harms to consumers and is leading to the erosion of our basic expectation of privacy. Reproductive health apps<sup>1</sup> and hospital websites<sup>2</sup> have been caught sharing users' sensitive health

<sup>1</sup> Catherine Roberts, These Period Tracker Apps Say They Put Privacy First. Here's What We Found, Consumer Reports, (August 30, 2022), <https://www.consumerreports.org/health/health-privacy/period-tracker-apps-privacy-a2278134145/>

<sup>2</sup> Todd Feathers, Simon Fondrie-Teitler, Angie Waller, and Surya Mattu, Facebook Is Receiving Sensitive Medical Information from Hospital Websites, The Markup (July 16, 2022), <https://themarkup.org/pixel-hunt/2022/06/16/facebook-is-receiving-sensitive-medical-information-from-hospital-websites>

information with large social media platforms – risking the potential for embarrassment, stigmatization, or even criminalization. Retail stores,<sup>3</sup> websites, and apps track our every move in order to segment us into hyper-granularized marketing categories, using data to make inferences about us or our lifestyles (like that we are “economically anxious elders,” “heavy purchasers of pregnancy tests,” or “frequently depressed”)<sup>4</sup> that are ultimately used to target us with advertisements. Several car manufacturers were recently alleged to be surreptitiously sharing driver information with data brokers who then sold the information to insurance companies that, in some cases, used the information to raise consumers’ premiums.<sup>5</sup> Facial recognition companies like Clearview AI have exploited lax privacy standards to amass databases of billions of images that allow any person to instantaneously identify any other person and associate them with other personal details, all with just a single image.<sup>6</sup>

H. 121 creates important guardrails that would help prevent such abuses and ensure that companies must abide by a basic respect for consumer privacy. Signing the Vermont Data Privacy Act would position Vermont as a leader in providing meaningful privacy protections for consumers, alongside Maryland, which passed a similar privacy law this session. Enacting H. 121 would make Vermont the 18th state to adopt a privacy law while recognizing the time and effort the Vermont Legislature put into tailoring privacy legislation to fit the needs of Vermonters. In particular, the Vermont Data Privacy Act would:

**Place default limits on businesses’ collection of information.**

The bill’s data minimization provisions will help rein in the systemic over-collection of consumers’ personal information by requiring that collection of consumers’ personal information must be “reasonably necessary and proportionate to provide or maintain a specific product or service requested by the consumer to whom the data pertains.” This is a basic privacy hygiene standard that will help eliminate common practices that have contributed to, among other things, the persistent drip of massive data breaches that expose consumers’ personal information to criminals, stalkers, and other unwanted third-parties.

**Ban the sale of sensitive data.**

Companies should not be profiting from the sale of consumers’ most personal data, such as children’s data or data about a consumer’s race, religion, sex life, precise geolocation, or health. The bill appropriately bans this behavior.

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<sup>3</sup> Jon Keegan, Forget Milk and Eggs: Supermarkets Are Having a Fire Sale on Data About You, The Markup, (February 16, 2023),

<https://themarkup.org/privacy/2023/02/16/forget-milk-and-eggs-supermarkets-are-having-a-fire-sale-on-data-about-you>

<sup>4</sup> Jon Keegan and Joel Eastwood, From “Heavy Purchasers” of Pregnancy Tests to the Depression-Prone: We Found 650,000 Ways Advertisers Label You, The Markup, (June 8, 2023),

<https://themarkup.org/privacy/2023/06/08/from-heavy-purchasers-of-pregnancy-tests-to-the-depression-prone-we-found-650000-ways-advertisers-label-you>

<sup>5</sup> Kashmir Hill, Automakers Are Sharing Consumers’ Driving Behavior With Insurance Companies, New York Times, (March 13, 2024), <https://www.nytimes.com/2024/03/11/technology/carmakers-driver-tracking-insurance.html>

<sup>6</sup> Kashmir Hill, The Secretive Company That Might End Privacy as We Know It, New York Times, (November 2, 2021), <https://www.nytimes.com/2020/01/18/technology/clearview-privacy-facial-recognition.html>

**Institute strong civil rights protections.**

A key harm observed in the digital marketplace today is 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. Therefore, a crucial piece of strong privacy legislation is ensuring that a business' processing of personal data does not discriminate against or otherwise make opportunity or public accommodation unavailable on the basis of protected classes. We appreciate that the bill contains specific language prohibiting the use of personal information to discriminate against consumers.

**Create a right for individuals to seek redress in courts when large businesses violate the law.**

The Vermont Data Privacy Act allows for individuals to sue data brokers and large data holders (defined as companies that have collected 100,000 or more Vermont residents' personal data) when they have violated certain provisions of the law relating to sensitive data and consumer health data. This is a reasonable compromise that will ensure that the largest companies will be properly incentivized to comply with the law and that consumers can vindicate their rights relating to their most personal information, all while ensuring that Vermont's local businesses will still be able to compete while they get up to speed with the new law.

Governor Scott, we urge you to protect your constituents' privacy rights by signing this critical legislation into law.

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Sincerely,

**Organizations**

Center for Democracy and Technology  
Center for Digital Democracy  
Clearly TV  
Consumer Reports  
Electronic Privacy Information Center (EPIC)

Encode Justice  
Restore the Fourth  
U.S. Public Interest Research Group (PIRG)  
VPIRG  
Vermont Womenpreneuers

**Representatives**

Rep. Peter Anthony  
Rep. Tiffany Bluemle

Rep. Erin Brady  
Rep. Mollie Burke

Rep. Jim Carroll  
Rep. Sara Coffey  
Rep. Karen Dolan  
Rep. Bobby Farlice-Rubio  
Rep. Stephanie Jerome  
Rep. Josie Leavitt

Rep. Kate McCann  
Rep. Logan Nicoll  
Rep. Monique Priestley  
Rep. Avram Pa  
Rep. Larry Satcowitz  
Rep. Jonathan Williams

### **Individuals**

Emily Ahtunan, Montpelier  
Matthew Anderson, Orwell  
Mary Andes, Richmond  
Cynthia Baehr, Putney  
Lucinda Blakeslee, Bradford  
Linda Bryan, Newbury  
Evan Carlson, Sutton  
Rebecca Castellano, Bethel  
Rajan Chawla, Essex Jct.  
Stephen Chisa, Burlington  
Miranda Clemson, Fairlee  
Greta D'Agostino, Williston  
Laura Derrenderinger, Middletown Springs  
Patrick Dowd, Lyme (NH)  
Jennifer Dukehart, Bristol  
Elizabeth Friend, Bradford  
Paula Gilrain, Bradford  
Terry Greywolf, Vernon  
Adrian Gropper, Arlington (MA)  
Dr. Aili Jones, Middlebury

Isaiah Kirk, Fair Haven  
Katherine Knish, Bradford  
Suzanne Krohn, South Burlington  
Kyle Lawson, Bradford  
Ryan Lockwood, Bradford  
Wayne Maceyka, Hinesburg  
Becca Mandigo, Marshfield  
Dr. Pat McLaine, Windham  
Alan McLaine, Windham  
Amanda Mowle, Orwell  
Margaret Mowle, Killington  
Walter Mowle, Killington  
Elizabeth Murphy, Waterford  
Ann O'Connor, West Fairlee  
Wendy Rice, Burlington  
Joanne Scannevin, Killington  
Heather Thomas, Wells  
Diana Weston, Barre  
Erin Wetherell, East Thetford  
David Young, Bennington  
Professor Shoshana Zuboff, Nobleboro (ME)