

1 H.121

2 Senator Ram Hinsdale moves that the Senate concur in the House proposal
3 of amendment to the Senate proposal of amendment with further proposal of
4 amendment as follows:

5 First: In Sec. 1, 9 V.S.A. chapter 61A, by striking out section 2415 in its
6 entirety and inserting in lieu thereof a new section 2415 to read as follows:

7 § 2415. DEFINITIONS

8 As used in this chapter:

9 (1)(A) “Affiliate” means a legal entity that shares common branding
10 with another legal entity or controls, is controlled by, or is under common
11 control with another legal entity.

12 (B) As used in subdivision (A) of this subdivision (1), “control” or
13 “controlled” means:

14 (i) ownership of, or the power to vote, more than 50 percent of the
15 outstanding shares of any class of voting security of a company;

16 (ii) control in any manner over the election of a majority of the
17 directors or of individuals exercising similar functions; or

18 (iii) the power to exercise controlling influence over the
19 management of a company.

1 (2) “Age estimation” means a process that estimates that a consumer is
2 likely to be of a certain age, fall within an age range, or is over or under a
3 certain age.

4 (A) Age estimation methods include:

5 (i) analysis of behavioral and environmental data the controller
6 already collects about its consumers;

7 (ii) comparing the way a consumer interacts with a device or with
8 consumers of the same age;

9 (iii) metrics derived from motion analysis; and

10 (iv) testing a consumer’s capacity or knowledge.

11 (B) Age estimation does not require certainty, and if a controller
12 estimates a consumer’s age for the purpose of advertising or marketing, that
13 estimation may also be used to comply with this chapter.

14 (3) “Age verification” means a system that relies on hard identifiers or
15 verified sources of identification to confirm a consumer has reached a certain
16 age, including government-issued identification or a credit card.

17 (4) “Authenticate” means to use reasonable means to determine that a
18 request to exercise any of the rights afforded under subdivisions 2418(a)(1)–
19 (5) of this title is being made by, or on behalf of, the consumer who is entitled
20 to exercise the consumer rights with respect to the personal data at issue.

1 (5)(A) “Biometric data” means data generated from the technological
2 processing of an individual’s unique biological, physical, or physiological
3 characteristics that is linked or reasonably linkable to an individual, including:

4 (i) iris or retina scans;

5 (ii) fingerprints;

6 (iii) facial or hand mapping, geometry, or templates;

7 (iv) vein patterns;

8 (v) voice prints; and

9 (vi) gait or personally identifying physical movement or patterns.

10 (B) “Biometric data” does not include:

11 (i) a digital or physical photograph;

12 (ii) an audio or video recording; or

13 (iii) any data generated from a digital or physical photograph, or
14 an audio or video recording, unless such data is generated to identify a specific
15 individual.

16 (6) “Broker-dealer” has the same meaning as in 9 V.S.A. § 5102.

17 (7) “Business associate” has the same meaning as in HIPAA.

18 (8) “Child” has the same meaning as in COPPA.

19 (9)(A) “Consent” means a clear affirmative act signifying a consumer’s
20 freely given, specific, informed, and unambiguous agreement to allow the
21 processing of personal data relating to the consumer.

1 (B) “Consent” may include a written statement, including by
2 electronic means, or any other unambiguous affirmative action.

3 (C) “Consent” does not include:

4 (i) acceptance of a general or broad terms of use or similar
5 document that contains descriptions of personal data processing along with
6 other, unrelated information;

7 (ii) hovering over, muting, pausing, or closing a given piece of
8 content; or

9 (iii) agreement obtained through the use of dark patterns.

10 (10)(A) “Consumer” means an individual who is a resident of the State.

11 (B) “Consumer” does not include an individual acting in a
12 commercial or employment context or as an employee, owner, director, officer,
13 or contractor of a company, partnership, sole proprietorship, nonprofit, or
14 government agency whose communications or transactions with the controller
15 occur solely within the context of that individual’s role with the company,
16 partnership, sole proprietorship, nonprofit, or government agency.

17 (11) “Consumer health data” means any personal data that a controller
18 uses to identify a consumer’s physical or mental health condition or diagnosis,
19 including gender-affirming health data and reproductive or sexual health data.

1 (12) “Consumer health data controller” means any controller that, alone
2 or jointly with others, determines the purpose and means of processing
3 consumer health data.

4 (13) “Consumer reporting agency” has the same meaning as in the Fair
5 Credit Reporting Act, 15 U.S.C. § 1681a(f);

6 (14) “Controller” means a person who, alone or jointly with others,
7 determines the purpose and means of processing personal data.

8 (15) “COPPA” means the Children’s Online Privacy Protection Act of
9 1998, 15 U.S.C. § 6501–6506, and any regulations, rules, guidance, and
10 exemptions promulgated pursuant to the act, as the act and regulations, rules,
11 guidance, and exemptions may be amended.

12 (16) “Covered entity” has the same meaning as in HIPAA.

13 (17) “Credit union” has the same meaning as in 8 V.S.A. § 30101.

14 (18) “Dark pattern” means a user interface designed or manipulated with
15 the substantial effect of subverting or impairing user autonomy, decision-
16 making, or choice and includes any practice the Federal Trade Commission
17 refers to as a “dark pattern.”

18 (19) “Data broker” has the same meaning as in section 2430 of this title.

19 (20) “Decisions that produce legal or similarly significant effects
20 concerning the consumer” means decisions made by the controller that result in
21 the provision or denial by the controller of financial or lending services,

1 housing, insurance, education enrollment or opportunity, criminal justice,
2 employment opportunities, health care services, or access to essential goods or
3 services.

4 (21) “De-identified data” means data that does not identify and cannot
5 reasonably be used to infer information about, or otherwise be linked to, an
6 identified or identifiable individual, or a device linked to the individual, if the
7 controller that possesses the data:

8 (A)(i) takes reasonable measures to ensure that the data cannot be
9 used to re-identify an identified or identifiable individual or be associated with
10 an individual or device that identifies or is linked or reasonably linkable to an
11 individual or household;

12 (ii) for purposes of this subdivision (A), “reasonable measures”
13 shall include the de-identification requirements set forth under 45 C.F.R.
14 § 164.514 (other requirements relating to uses and disclosures of protected
15 health information);

16 (B) publicly commits to process the data only in a de-identified
17 fashion and not attempt to re-identify the data; and

18 (C) contractually obligates any recipients of the data to satisfy the
19 criteria set forth in subdivisions (A) and (B) of this subdivision (21).

20 (22) “Financial institution”:

1 (A) as used in subdivision 2417(a)(12) of this title, has the same
2 meaning as in 15 U.S.C. § 6809; and

3 (B) as used in subdivision 2417(a)(14) of this title, has the same
4 meaning as in 8 V.S.A. § 11101.

5 (23) “Gender-affirming health care services” has the same meaning as in
6 1 V.S.A. § 150.

7 (24) “Gender-affirming health data” means any personal data
8 concerning a past, present, or future effort made by a consumer to seek, or a
9 consumer’s receipt of, gender-affirming health care services, including:

10 (A) precise geolocation data that is used for determining a
11 consumer’s attempt to acquire or receive gender-affirming health care services;

12 (B) efforts to research or obtain gender-affirming health care
13 services; and

14 (C) any gender-affirming health data that is derived from nonhealth
15 information.

16 (25) “Genetic data” means any data, regardless of its format, that results
17 from the analysis of a biological sample of an individual, or from another
18 source enabling equivalent information to be obtained, and concerns genetic
19 material, including deoxyribonucleic acids (DNA), ribonucleic acids (RNA),
20 genes, chromosomes, alleles, genomes, alterations or modifications to DNA or
21 RNA, single nucleotide polymorphisms (SNPs), epigenetic markers,

1 uninterpreted data that results from analysis of the biological sample or other
2 source, and any information extrapolated, derived, or inferred therefrom.

3 (26) “Geofence” means any technology that uses global positioning
4 coordinates, cell tower connectivity, cellular data, radio frequency
5 identification, wireless fidelity technology data, or any other form of location
6 detection, or any combination of such coordinates, connectivity, data,
7 identification, or other form of location detection, to establish a virtual
8 boundary.

9 (27) “Health care component” has the same meaning as in HIPAA.

10 (28) “Health care facility” has the same meaning as in 18 V.S.A. § 9432.

11 (29) “Heightened risk of harm to a minor” means processing the
12 personal data of a minor in a manner that presents a reasonably foreseeable risk
13 of:

14 (A) unfair or deceptive treatment of, or unlawful disparate impact on,
15 a minor;

16 (B) financial, physical, or reputational injury to a minor;

17 (C) unintended disclosure of the personal data of a minor; or

18 (D) any physical or other intrusion upon the solitude or seclusion, or
19 the private affairs or concerns, of a minor if the intrusion would be offensive to
20 a reasonable person.

1 (30) “HIPAA” means the Health Insurance Portability and
2 Accountability Act of 1996, Pub. L. No. 104-191, and any regulations
3 promulgated pursuant to the act, as may be amended.

4 (31) “Hybrid entity” has the same meaning as in HIPAA.

5 (32) “Identified or identifiable individual” means an individual who can
6 be readily identified, directly or indirectly, including by reference to an
7 identifier such as a name, an identification number, specific geolocation data,
8 or an online identifier.

9 (33) “Independent trust company” has the same meaning as in 8 V.S.A.
10 § 2401.

11 (34) “Investment adviser” has the same meaning as in 9 V.S.A. § 5102.

12 (35) “Large data holder” means a person that during the preceding
13 calendar year processed the personal data of not fewer than 100,000
14 consumers.

15 (36) “Mental health facility” means any health care facility in which at
16 least 70 percent of the health care services provided in the facility are mental
17 health services.

18 (37) “Nonpublic personal information” has the same meaning as in 15
19 U.S.C. § 6809.

1 (38)(A) “Online service, product, or feature” means any service,
2 product, or feature that is provided online, except as provided in subdivision
3 (B) of this subdivision (38).

4 (B) “Online service, product, or feature” does not include:

5 (i) telecommunications service, as that term is defined in the
6 Communications Act of 1934, 47 U.S.C. § 153;

7 (ii) broadband internet access service, as that term is defined in
8 47 C.F.R. § 54.400 (universal service support); or

9 (iii) the delivery or use of a physical product.

10 (39) “Patient identifying information” has the same meaning as in
11 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records).

12 (40) “Patient safety work product” has the same meaning as in 42 C.F.R.
13 § 3.20 (patient safety organizations and patient safety work product).

14 (41)(A) “Personal data” means any information, including derived data
15 and unique identifiers, that is linked or reasonably linkable to an identified or
16 identifiable individual or to a device that identifies, is linked to, or is
17 reasonably linkable to one or more identified or identifiable individuals in a
18 household.

19 (B) “Personal data” does not include de-identified data or publicly
20 available information.

1 (42)(A) “Precise geolocation data” means information derived from
2 technology that can precisely and accurately identify the specific location of a
3 consumer within a radius of 1,850 feet.

4 (B) “Precise geolocation data” does not include:

5 (i) the content of communications;

6 (ii) data generated by or connected to an advanced utility metering
7 infrastructure system; or

8 (iii) data generated by equipment used by a utility company.

9 (43) “Process” or “processing” means any operation or set of operations
10 performed, whether by manual or automated means, on personal data or on sets
11 of personal data, such as the collection, use, storage, disclosure, analysis,
12 deletion, or modification of personal data.

13 (44) “Processor” means a person who processes personal data on behalf
14 of a controller.

15 (45) “Profiling” means any form of automated processing performed on
16 personal data to evaluate, analyze, or predict personal aspects related to an
17 identified or identifiable individual’s economic situation, health, personal
18 preferences, interests, reliability, behavior, location, or movements.

19 (46) “Protected health information” has the same meaning as in HIPAA.

20 (47) “Pseudonymous data” means personal data that cannot be attributed
21 to a specific individual without the use of additional information, provided the

1 additional information is kept separately and is subject to appropriate technical
2 and organizational measures to ensure that the personal data is not attributed to
3 an identified or identifiable individual.

4 (48)(A) “Publicly available information” means information that:

5 (i) is lawfully made available through federal, state, or local
6 government records; or

7 (ii) a controller has a reasonable basis to believe that the consumer
8 has lawfully made available to the general public through widely distributed
9 media.

10 (B) “Publicly available information” does not include biometric data
11 collected by a business about a consumer without the consumer’s knowledge.

12 (49) “Qualified service organization” has the same meaning as in
13 42 C.F.R. § 2.11 (confidentiality of substance use disorder patient records).

14 (50) “Reproductive or sexual health care” has the same meaning as
15 “reproductive health care services” in 1 V.S.A. § 150(c)(1).

16 (51) “Reproductive or sexual health data” means any personal data
17 concerning a past, present, or future effort made by a consumer to seek, or a
18 consumer’s receipt of, reproductive or sexual health care.

19 (52) “Reproductive or sexual health facility” means any health care
20 facility in which at least 70 percent of the health care-related services or

1 products rendered or provided in the facility are reproductive or sexual health
2 care.

3 (53)(A) “Sale of personal data” means the exchange of a consumer’s
4 personal data by the controller to a third party for monetary or other valuable
5 consideration or otherwise for a commercial purpose.

6 (B) As used in this subdivision (53), “commercial purpose” means to
7 advance a person’s commercial or economic interests, such as by inducing
8 another person to buy, rent, lease, join, subscribe to, provide, or exchange
9 products, goods, property, information, or services, or enabling or effecting,
10 directly or indirectly, a commercial transaction.

11 (C) “Sale of personal data” does not include:

12 (i) the disclosure of personal data to a processor that processes the
13 personal data on behalf of the controller;

14 (ii) the disclosure of personal data to a third party for purposes of
15 providing a product or service requested by the consumer;

16 (iii) the disclosure or transfer of personal data to an affiliate of the
17 controller;

18 (iv) the disclosure of personal data where the consumer directs the
19 controller to disclose the personal data or intentionally uses the controller to
20 interact with a third party;

21 (v) the disclosure of personal data that the consumer:

1 (I) intentionally made available to the general public via a
2 channel of mass media; and

3 (II) did not restrict to a specific audience; or

4 (vi) the disclosure or transfer of personal data to a third party as an
5 asset that is part of a merger, acquisition, bankruptcy or other transaction, or a
6 proposed merger, acquisition, bankruptcy, or other transaction, in which the
7 third party assumes control of all or part of the controller’s assets.

8 (54) “Sensitive data” means personal data that:

9 (A) reveals a consumer’s government-issued identifier, such as a
10 Social Security number, passport number, state identification card, or driver’s
11 license number, that is not required by law to be publicly displayed;

12 (B) reveals a consumer’s racial or ethnic origin, national origin,
13 citizenship or immigration status, religious or philosophical beliefs, or union
14 membership;

15 (C) reveals a consumer’s sexual orientation, sex life, sexuality, or
16 status as transgender or nonbinary;

17 (D) reveals a consumer’s status as a victim of a crime;

18 (E) is financial information, including a consumer’s tax return and
19 account number, financial account log-in, financial account, debit card number,
20 or credit card number in combination with any required security or access
21 code, password, or credentials allowing access to an account;

1 (F) is consumer health data;

2 (G) is personal data collected and analyzed concerning consumer
3 health data or personal data that describes or reveals a past, present, or future
4 mental or physical health condition, treatment, disability, or diagnosis,
5 including pregnancy, to the extent the personal data is not used by the
6 controller to identify a specific consumer’s physical or mental health condition
7 or diagnosis;

8 (H) is biometric or genetic data;

9 (I) is personal data collected from a known minor; or

10 (J) is precise geolocation data.

11 (55)(A) “Targeted advertising” means the targeting of an advertisement
12 to a consumer based on the consumer’s activity with one or more businesses,
13 distinctly branded websites, applications, or services, other than the controller,
14 distinctly branded website, application, or service with which the consumer is
15 intentionally interacting.

16 (B) “Targeted advertising” does not include:

17 (i) an advertisement based on activities within the controller’s own
18 commonly branded website or online application;

19 (ii) an advertisement based on the context of a consumer’s current
20 search query, visit to a website, or use of an online application;

1 (iii) an advertisement directed to a consumer in response to the
2 consumer’s request for information or feedback; or

3 (iv) processing personal data solely to measure or report
4 advertising frequency, performance, or reach.

5 (56) “Third party” means a natural or legal person, public authority,
6 agency, or body, other than the consumer, controller, or processor or an
7 affiliate of the processor or the controller.

8 (57) “Trade secret” has the same meaning as in section 4601 of this title.

9 (58) “Victim services organization” means a nonprofit organization that
10 is established to provide services to victims or witnesses of child abuse,
11 domestic violence, human trafficking, sexual assault, violent felony, or
12 stalking.

13 Second: In Sec. 1, 9 V.S.A. chapter 61A, in subsection 2417(a), by striking
14 out subdivision (2) in its entirety and inserting in lieu thereof a new
15 subdivision (2) to read as follows:

16 (2) a covered entity that is not a hybrid entity, any health care
17 component of a hybrid entity, or a business associate;

18 Third: In Sec. 1, 9 V.S.A. chapter 61A, by striking out section 2427 in its
19 entirety and inserting in lieu thereof a new section 2427 to read as follows:

1 § 2427. ENFORCEMENT; ATTORNEY GENERAL’S POWERS

2 (a) A person who violates this chapter or rules adopted pursuant to this
3 chapter commits an unfair and deceptive act in commerce in violation of
4 section 2453 of this title, provided that a private right of action under
5 subsection 2461(b) of this title shall not apply to the violation, and the
6 Attorney General shall have exclusive authority to enforce such violations.

7 (b) The Attorney General has the same authority to adopt rules to
8 implement the provisions of this section and to conduct civil investigations,
9 enter into assurances of discontinuance, bring civil actions, and take other
10 enforcement actions as provided under chapter 63, subchapter 1 of this title.

11 (c)(1) If the Attorney General determines that a violation of this chapter or
12 rules adopted pursuant to this chapter may be cured, the Attorney General may,
13 prior to initiating any action for the violation, issue a notice of violation
14 extending a 60-day cure period to the controller, processor, or consumer health
15 data controller alleged to have violated this chapter or rules adopted pursuant
16 to this chapter.

17 (2) The Attorney General may, in determining whether to grant a
18 controller, processor, or consumer health data controller the opportunity to
19 cure an alleged violation described in subdivision (1) of this subsection,
20 consider:

21 (A) the number of violations;

1 (B) the size and complexity of the controller, processor, or consumer
2 health data controller;

3 (C) the nature and extent of the controller’s, processor’s, or consumer
4 health data controller’s processing activities;

5 (D) the substantial likelihood of injury to the public;

6 (E) the safety of persons or property;

7 (F) whether the alleged violation was likely caused by human or
8 technical error; and

9 (G) the sensitivity of the data.

10 (d) Annually, on or before February 1, the Attorney General shall submit a
11 report to the General Assembly disclosing:

12 (1) the number of notices of violation the Attorney General has issued;

13 (2) the nature of each violation;

14 (3) the number of violations that were cured during the available cure
15 period; and

16 (4) any other matter the Attorney General deems relevant for the
17 purposes of the report.

18 Fourth: In Sec. 7, 9 V.S.A. chapter 62, subchapter 6, in subdivision
19 2449a(10), following “designed or manipulated with the”, by striking out the
20 word “substantial”

1 Fifth: By striking out Sec. 8, effective dates, in its entirety and inserting in
2 lieu thereof four new sections to be Secs. 8–11 to read as follows:

3 Sec. 8. STUDY; VERMONT DATA PRIVACY ACT

4 On or before January 15, 2026, the Attorney General shall review and report
5 their findings and recommendations to the House Committees on Commerce
6 and Economic Development, on Health Care, and on Judiciary and the Senate
7 Committees on Economic Development, Housing and General Affairs, on
8 Health and Welfare, and on Judiciary concerning policy recommendations for
9 improving data privacy in Vermont through:

10 (1) development of legislative language for implementing a private right
11 of action in 9 V.S.A. chapter 61A , giving consideration to other state
12 approaches and including through structuring:

13 (A) violations giving rise to a private right of action in a manner that
14 addresses the gravest harms to consumers;

15 (B) applicability thresholds to ensure that the private right of action
16 does not harm good-faith actors or small Vermont businesses;

17 (C) damages that balance the consumer interest in enforcing the
18 consumer’s personal data rights against the incentives a private right of action
19 may provide to litigants with frivolous claims; and

20 (D) other mechanisms to ensure the private right of action is targeted
21 to address persons engaging in unfair or deceptive acts;

1 (2) addressing the scope of health care exemptions under 9 V.S.A.
2 § 2417(a)(2)–(8), including based on:
3 (I) research on the effects on the health care industry of the
4 health-related data-level exemptions under the Oregon Consumer Privacy Act;
5 (II) economic analysis of compliance costs for the health care
6 industry; and
7 (III) an analysis of health-related entities excluded from the
8 health care exemptions under 9 V.S.A. § 2417(a)(2)–(8); and
9 (3) analysis of the data security implications of implementation of the
10 Vermont Data Privacy Act.

11 Sec. 9. 9 V.S.A. § 2427 is amended to read:

12 § 2427. ENFORCEMENT; ATTORNEY GENERAL’S POWERS

13 (a) A person who violates this chapter or rules adopted pursuant to this
14 chapter commits an unfair and deceptive act in commerce in violation of
15 section 2453 of this title, ~~provided that a consumer private right of action under~~
16 ~~subsection 2461(b) of this title shall not apply to the violation,~~ and the
17 Attorney General shall have exclusive authority to enforce such violations
18 except as provided in subsection (d) of this section.

19 (b) The Attorney General has the same authority to adopt rules to
20 implement the provisions of this section and to conduct civil investigations,

1 enter into assurances of discontinuance, bring civil actions, and take other
2 enforcement actions as provided under chapter 63, subchapter 1 of this title.

3 (c)(1) If the Attorney General determines that a violation of this chapter or
4 rules adopted pursuant to this chapter may be cured, the Attorney General may,
5 prior to initiating any action for the violation, issue a notice of violation
6 extending a 60-day cure period to the controller, processor, or consumer health
7 data controller alleged to have violated this chapter or rules adopted pursuant
8 to this chapter.

9 (2) The Attorney General may, in determining whether to grant a
10 controller, processor, or consumer health data controller the opportunity to
11 cure an alleged violation described in subdivision (1) of this subsection,
12 consider:

13 (A) the number of violations;

14 (B) the size and complexity of the controller, processor, or consumer
15 health data controller;

16 (C) the nature and extent of the controller's, processor's, or consumer
17 health data controller's processing activities;

18 (D) the substantial likelihood of injury to the public;

19 (E) the safety of persons or property;

20 (F) whether the alleged violation was likely caused by human or
21 technical error; and

1 (G) the sensitivity of the data.

2 (d)(1) The private right of action available to a consumer for violations of
3 this chapter or rules adopted pursuant to this chapter shall be exclusively as
4 provided under this subsection.

5 (2) A consumer who is harmed by a data broker's or large data holder's
6 violation of subdivision 2419(b)(2) of this title, subdivision 2419(b)(3) of this
7 title, or section 2428 of this title may bring an action under subsection 2461(b)
8 of this title for the violation, but the right available under subsection 2461(b) of
9 this title shall not be available for a violation of any other provision of this
10 chapter or rules adopted pursuant to this chapter.

11 (e) Annually, on or before February 1, the Attorney General shall submit a
12 report to the General Assembly disclosing:

13 (1) the number of notices of violation the Attorney General has issued;

14 (2) the nature of each violation;

15 (3) the number of violations that were cured during the available cure

16 period; ~~and~~

17 (4) the number of actions brought under subsection (d) of this section;

18 (5) the proportion of actions brought under subsection (d) of this section

19 that proceed to trial;

20 (6) the data brokers or large data holders most frequently sued under

21 subsection (d) of this section; and

1 ~~(4)(7)~~ any other matter the Attorney General deems relevant for the
2 purposes of the report.

3 Sec. 10. 9 V.S.A. § 2427 is amended to read:

4 § 2427. ENFORCEMENT; ATTORNEY GENERAL’S POWERS

5 (a) A person who violates this chapter or rules adopted pursuant to this
6 chapter commits an unfair and deceptive act in commerce in violation of
7 section 2453 of this title, provided that a consumer private right of action under
8 subsection 2461(b) of this title shall not apply to the violation, and the
9 Attorney General shall have exclusive authority to enforce such violations
10 ~~except as provided in subsection (d) of this section.~~

11 (b) The Attorney General has the same authority to adopt rules to
12 implement the provisions of this section and to conduct civil investigations,
13 enter into assurances of discontinuance, bring civil actions, and take other
14 enforcement actions as provided under chapter 63, subchapter 1 of this title.

15 (c)(1) If the Attorney General determines that a violation of this chapter or
16 rules adopted pursuant to this chapter may be cured, the Attorney General may,
17 prior to initiating any action for the violation, issue a notice of violation
18 extending a 60-day cure period to the controller, processor, or consumer health
19 data controller alleged to have violated this chapter or rules adopted pursuant
20 to this chapter.

1 (2) The Attorney General may, in determining whether to grant a
2 controller, processor, or consumer health data controller the opportunity to
3 cure an alleged violation described in subdivision (1) of this subsection,
4 consider:

5 (A) the number of violations;

6 (B) the size and complexity of the controller, processor, or consumer
7 health data controller;

8 (C) the nature and extent of the controller's, processor's, or consumer
9 health data controller's processing activities;

10 (D) the substantial likelihood of injury to the public;

11 (E) the safety of persons or property;

12 (F) whether the alleged violation was likely caused by human or
13 technical error; and

14 (G) the sensitivity of the data.

15 ~~(d)(1) The private right of action available to a consumer for violations of~~
16 ~~this chapter or rules adopted pursuant to this chapter shall be exclusively as~~
17 ~~provided under this subsection.~~

18 ~~(2) A consumer who is harmed by a data broker's or large data holder's~~
19 ~~violation of subdivision 2419(b)(2) of this title, subdivision 2419(b)(3) of this~~
20 ~~title, or section 2428 of this title may bring an action under subsection 2461(b)~~
21 ~~of this title for the violation, but the right available under subsection 2461(b) of~~

1 ~~this title shall not be available for a violation of any other provision of this~~
2 ~~chapter or rules adopted pursuant to this chapter.~~

3 (e) Annually, on or before February 1, the Attorney General shall submit a
4 report to the General Assembly disclosing:

5 (1) the number of notices of violation the Attorney General has issued;

6 (2) the nature of each violation;

7 (3) the number of violations that were cured during the available cure
8 period; and

9 ~~(4) the number of actions brought under subsection (d) of this section;~~

10 ~~(5) the proportion of actions brought under subsection (d) of this section~~
11 ~~that proceed to trial;~~

12 ~~(6) the data brokers or large data holders most frequently sued under~~
13 ~~subsection (d) of this section; and~~

14 ~~(7) any other matter the Attorney General deems relevant for the~~
15 purposes of the report.

16 Sec. 11. EFFECTIVE DATES

17 (a) This section and Secs. 2 (public education and outreach), 3 (protection
18 of personal information), 4 (data broker opt-out study), and 8 (study; Vermont
19 Data Privacy Act) shall take effect on July 1, 2024.

20 (b) Secs. 1 (Vermont Data Privacy Act) and 7 (Age-Appropriate Design
21 Code) shall take effect on July 1, 2025.

1 (c) Sec. 5 (Vermont Data Privacy Act middle applicability threshold) shall
2 take effect on July 1, 2026.

3 (d) Sec. 9 (private right of action) shall take effect on January 1, 2027.

4 (e) Sec. 6 (Vermont Data Privacy Act low applicability threshold) shall
5 take effect on July 1, 2027.

6 (f) Sec. 10 (private right of action repeal) shall take effect on January 1,
7 2029.