

OPPOSITION TO CSHB 18 (Slawson, et. al)

We thank Representative Slawson and House Leadership for their engagement with stakeholders and the opportunity to provide feedback on HB 18. While we support measures to protect the online safety of children, especially when it comes to their sensitive or personal information, we cannot support HB18 in its current form.

Provisions in the committee substitute of HB 18 are still overly broad, which could ultimately lead to an inability to comply with the legislation as well as costly litigation for any entity operating a website.

For Example:

- The duty to prevent harm provision is vague and unclear about how it applies to businesses. As drafted, this provision would encompass any business with an online presence. At the same time, CSHB 18 fails to articulate what is required of a business to meet the ‘duty to prevent harm’ threshold.
- The bill is not limited to “personal information” but rather all “data.” No other privacy law in the US regulates non-personal information as that would create compliance challenges.
- While we understand the intent is for the minor’s information to be in a different classification, there are varying classifications of data. Thus, in order for companies to know how to comply, the definition of “data” would need to be made clearer, e.g. “personal information.”
- CSHB 18 attempts to move closer to a “known minor” standard which is appreciated by the business community. However, with the inclusion of “willful disregard,” a business may still need to assume that every visitor to the site is a minor. This will drastically change the online experience for adults and minors alike.
- There should be “right to cure” language to allow companies who are trying to comply with a complicated new law fix errors as they come into compliance. Excluding this provision adds another level of liability and harms businesses trying to operate with a new state law, among many others, in good faith.

There are other solutions that many of us have supported, like HB 4, the strongest piece of state data privacy legislation in the nation. HB 4 includes protections for minor’s data and requires that a controller treats data as “sensitive” when they know it belongs to a minor. It also gives parents the authority to control, access, correct, delete, and opt out of the sale of data on behalf of a minor.

We are dedicated to being constructive stakeholders in all data privacy conversations. Unfortunately, CSHB 18 will have significant unintended consequences. Because of this, we are opposed to the legislation in its current form. We look forward to continuing to work with you and Texas lawmakers towards a solution.

