

## HB 3603 (Williams) – Too Overbroad to be Effective in its Current Form

Businesses in all sectors are committed to delivering on the intent to protect reproductive health and gender-affirming care data. Our member businesses represent a diverse spectrum across multiple disciplines and are operated and staffed by well-intended people who want to honor the intent of this legislation, while improving its efficacy. However, HB 3603 as drafted would usher in a new data privacy regulatory regime that goes well beyond its original intent and includes crippling compliance and enforcement mechanisms that will undoubtedly be abused just as it has under BIPA. The following groups urge lawmakers to reject a last-minute attempt to pass BIPA 2.0.

### **The legislation is well-intentioned but consumers will be confused by the current language**

- There is no doubt that these subjects are sensitive, important, and top-of-mind for many Illinois residents. Consumers should know that their most sensitive data is being safeguarded and that they can provide or withdraw consent for particular activities.
- This legislation would affect choice and access for consumers, including but not limited to, reproductive services. It would be far more effective for consumers if normal, day-to-day transactions like purchasing hygienic products online or in retail locations could proceed uninterrupted.

### **“Consumer Health Data” definition is too broad to be meaningful**

- The current definition is so broad that it would include data about activities and purchases of goods that consumers use every day, this includes toilet paper, deodorant, underwear, even shoes.
- The location data element is so broad that it would include nearly any service that relies on location (for example, information used for good driver discounts, or that helps consumers find the nearest grocery store).
- A definition more precisely targeted toward data that is used to determine whether individuals have accessed reproductive or gender-affirming care services or information would better accomplish the goals of this legislation, avoiding significant unintended consequences and friction for consumers.

### **The breadth of “Consumer Health Data” definition will also prevent meaningful compliance**

- By encompassing any data that “could be” health related, the breadth of the definition creates an impossible obligation for companies by establishing an opt-in regime for all collection of all data.
- Put simply, this definition encompasses virtually all data, *even if it was not intended to be used as health data at collection*. Because of the breadth and the impossibility of compliance, enforcement penalties will be unavoidable.

### **The Private Right of Action Will Not Help Consumers**

- Like BIPA, this legislation includes a similarly structured Private Right of Action (PRA) which will not provide the necessary protections to consumers.
- Similarly, BIPA’s PRA has not only failed to meaningfully protect consumers, but actually made them less safe, as companies that provide anti-fraud, convenient authentication, and other beneficial services leave the state because of abusive litigation risk.